G. R. S. IX-5]

Previous references.

File No. 233-20

Serial Nos. 162.

1920.

(A.)

Later references.

cto Def. no 89-28.

Persons

Preserve

B/

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Two.

Part B for August 1921.

SUBJECT.

Memorial of (i) Dasi, (ii) Subbia, (iii) Shanmuga (iv) Basalingadevaru and (v) Lakshminarayappa, who have been sentenced to death in Ingore Sessions Case No. 23 of 19-20.

8(2) To The Registrar, Chief Court.

No. G 24959 of 25.6.21.

Commutes the sentence of death passed on Shanmuga, Basalingadevaru & Lakshminarayappa to one of transportation and rejects the memorials of Dasi and Subbia. who have been sentenced to death.

1821. M

WD 1888—GPB—16,826—23-7-21

(For Disposal by Circulation.)

No. C. 660

.....1920-21.

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

SUBJECT.

Memorial of (i) Dasi, (ii) Subbia, (iii) Shamanna (iv) Basalingadevaru and (v) Lakshminaranappa, who have been sentenced to death in Mysore Sessions Case No. 23 of 19-20.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

21st May 1921 Offg. *Chief Secretary to Government.*

Extraordinary Member of Council.

6191-188 23.5.921. **First Member of Council.** Opinion recorded 25.5.21

Offg. **Second Member of Council.** Seen.

Third Member of Council.

12

G. R. S. 11] 1920-21

GENERAL AND REVENUE SECRETARIAT.

Courts)

NOTES.

File No. 2 33-20

FILE HEADING.

Memorials of Kasi, Subbaiya and 3 others accused in Mysore Sessions case no 23 of 19-20.

From

The Registrar Hhigh Court.

No. 989/G Dated 5-5-21 Received 6-5-21

Diary No. 23077 Enclos. 5 Spare Copies. Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards the memorials praying for mercy of Kasi, Subbaiya and 3 others sentenced to death in Mysore Sessions case no 23 of 1919-20 and Confirmed in Cr. Appeals nos 59+60 of 1920-21 and criminal referred case no 4 of 1920-21 by the Hhigh court

NOTES AND ORDERS.

Submd.

All the 5 memorialists have been sentenced to death and they pray that they may be given some lesser punishment

6-5-21 SGP

NOTES—First Sheet.

Serial No.

2 Petitioners 1 & 2 were charged, tried & convicted for the murder of Patel Puttaswamy of Alooru, Chamarajanagar Taluk on the 26th Sept 1919; and Petrs 3 to 5 were charged, tried & convicted for abetment of murder of the said Patel by means of conspiracy. In Mysore Sessions Case No: 23 of 1919-20, all the Petrs were sentenced to be hanged, the 1st & 2nd Petrs being sentenced under S. 302 I.P.C. & the remaining Petrs (3 to 5) under Ss: 109 & 302 I.P.C.

3 In Criml Appeals Nos: 59 & 60 of 1920-21 the Chief Court affirmed the convictions & sentences passed on all the Petrs & dismissed their appeals.

4 Hence the present memorials by Petrs 1 to 5 on the ground of mercy. The same grounds urged before the Chief Court are repeated in the memorials, and all the Petrs pray for a commutation of the sentences passed on them.

5 That the deceased Patel was murdered in a most cruel & heartless manner is a fact which is not disputed. His body was found lying in a pool of blood with the neck half severed from the trunk in a

NOTE.—Contn. sheet.

Serial No.

valley called Kembrehalla along the foot-path leading to Ummattur. The post mortem examination disclosed that not less than 24 incised wounds had been inflicted on the head, neck, shoulders, arms & hands of the victim while he was alive; and a number of bones were also found to have been fractured. It has been established by strong & reliable evidence that accds 1 & 2 were the persons who actually committed the murder, and they seem to fully deserve the sentences passed on them. As regards accds 3 to 5 it is proved by oral & documentary evidence that they had a strong motive to get the hated murdered. The Sessions Judge has discussed this aspect of the question in detail on pages 24-26 of the judgment, and it seems difficult to question the correctness of the conclusions drawn by him. The Judges of this Hon'ble Court have accepted them & seem to have given good grounds to support their view of the case. All the accds (1 to 5) had by pre-arrangement devised the means for the contemplated murder. Accds 3 to 5 conceived the scheme, designed

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat. | 6/1 File No. 233 of 1920

Serial No.

the means and engaged the services of petrs 1 & 2 and inspired them to carry out the common design. The petrs pressed into their services persons who were most innocent & decoyed the deceased Dahl by an ingenious arrangement & had him murdered in a most brutal & savage manner. The absence of all extenuating circumstances seems to be a singular feature in this case, and the mode of the Chief Court have observed that the sentence of death awarded by the Sessions Judge is the only appropriate one in the case of the petrs.

7) This does not seem to be a fit case for the exercise of mercy.

Subd for orders.

D. M. 11/5.

Rec: sec) 13.5.21
3rd Member

D. M. 13/5.

6388 13.5.21

8) There is direct evidence against the accused 1 & 2 that they hacked the deceased to death. The evidence of Mahantagga (PW 15) is very strong upon the point and is fully corroborated by the evidence of conspirators & others

NOTE.—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat. | -6b- File No. 232 of 1929

Serial No.

accused 3, 4 & 5 is not sustainable. The Evidence discloses the following facts.

(1) That there was a long standing ill will between them and the deceased Patel Pulla Varma

(2) That the 3rd & 5th accused sent a false message sent thro Patel Kunnath Vadu Veettil Pookkunju Nayar to recall the deceased.

(3) That the Evening previous to the murder all the accused were seen holding a conference together in the Shanthi & subsequently taken in the same magical at Sangamam in the house of the 5th accused.

(4) From the facts ~~stated~~ it is inferred that the messages that were sent for the purpose of executing measures for the murder of the deceased and that the accused had hired assassins. This is sought to show an inference to be drawn from the facts mentioned. To draw from the above mentioned facts. The absence of explanation of the part of the 1st & 2nd accused is also in support of the charge of the

NOTE.—Contn. sheet.

Serial No.

kind as assess. There is no evidence before that they were promised any reward especially any money by accused his absconding dead.

10) The most important witness to prove his conspiracy is his servant Pandu (P.W.9) who says that he was prevailed upon by his accused 3 to 5 (Chandrayya) to communicate false message through Swarupda that deceased Patel that he was wanted at his Palace entering at Ramraj Nagar. His witness was examined on his oath by the Dep. The request on his dead body was held with his and no explanation is forthcoming in regards his delay in his communication. Moreover

11) ~~the accused~~ his conspiracy according this evidence appears whether they had decided in one night only is his night-previous this matter which is not quite probable.

12) As his accused 3 to 5 have been held guilty only their abetment murder their sentence may be commuted to one & hence punishment for life and his sentence & death passed upon his accused 1 & 2 may be confirmed

16/5/21

NOTE—Contn. sheet.

(8

General and Revenue Secretariat.

Cls File No. 233 of 1920

Serial No.

13) Submit for orders.
May perhaps be disposed of by circular
D Mahadevan
17/5

Dewan)

14) Sd.) agree with remarks
19.5.21

Chief Secy

D. M.
19/5

15) Circulate
20/5

16) I also agree
Peel
25.5.21

17) I agree too.
Dewan
27.5.21.

18) Resolution complied
with
31/5/21

19) Please put up on 29.7.21 & 20.5.21
as ones
D. M.
31/5

Dewan

Submitted with a D.O. & D.F.

21 Submitted on 29.7.21.
D. M.
8/6

22) Copies
Dewan

Dewan)

DEWAN'S OFFICE.
Recd. on MAY 17 1921
No. 7199

DEWAN'S OFFICE.
NOTE—Contn. sheet
Recd. on JUN 11 1921
Reg. No. 7684

9

Final Note by the Second Member of Council.

Subject:—

Memorial of (1) Dasi, (ii) Subbiah, (iii) Shamanna, (iv) Basalingadevaru and (v) Lakshminaranappa, sentenced to death in Mysore Sessions Case No.23 of 1919-20.

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24) In Mysore Sessions Case No.23 of 1919-20, the memorialists were charged with and tried for the murder of Patel Puttuswami of Aldur Village in the Chamarajanagar Taluk, They have all been sentenced to death. The conviction and sentence having been confirmed by the Chief Court in Criminal Appeals Nos.59 and 60 of 1920-2 they have now appealed to His Highness for mercy.

N

R

O, P & Q.

25 2. When the papers came up to me, I recorded the following minute:-

Papers 1 to 6 of Office Notes

"There is direct evidence against the accused 1 and 2 that they hacked the deceased to death. The evidence of Mahantayya (P.W.15) is very strong upon the point and is fully corroborated. The evidence of conspiracy against the accused 3, 4 and 5 is not strong.

"The evidence consists of the following facts:-

(1) That there was strong ill-will between them and the deceased Patel Puttuswami.

(2) That the 3rd and 5th accused got a false message sent to the Patel through Varada, Revenue Peon, to go to Chamarajanagar to receive the Potgi amount.

(3) That in the evening previous to the murder all the accused were seen holding a conference together in the shandy of Ganaganur and later on the same night at Ganaganur in the house of the 5th accused.

From

(11)

Submitted to His Highness.

27) *I submit herewith a Final Note by the*...officiating Second *Member of Council on the subject of*...the..memorials..of (1) Dasi, (2) Subbia, (3) Shamanna, (4) Basalingadevaru, and (5) Lakshminaranappa, sentenced to death in Mysore Sessions Case No.23 of 19-20 *for His Highness' gracious approval.*

Dewan.

11th June 1921

2501/ 13

G. R. S. III-2.

General and Revenue Secretariat.

cfs File No. 233 of 1921

DEWAN'S OFFICE.
Recd. on JUN 17 1921
Reg. No. 7803

Serial No.

31) Submitted with 3 draft

32) Draft & Fair subd for favour of appvl & Signature.

D. M. 16/6

Rec'd Secy Dewan) 16.6.21.

D. M. 16/6

33) ~~Fair~~ copies signed by the Dewan.

21.6.21.

34) Please issue to-day

D. M. 21/6

Recd 8 a.m. 22/6.

2 To

The Registrar, Chief Court.

No. G. 24959 dt 25-6-21.

Communicates that His Highness the Maharaja has been pleased to commute the Sentence of death passed on Shamanna, Basalingappa Devaru & Lakminarayanappa to one of transportation and rejecting the memorials of Basi and Subbia, who have been sentenced to death.

35) Subd for perusal of H. H's orders.

D. M. 22/7

2nd Member

1st Member

36)

914-181 6.8.21

8.8.21

D. M. 4/8

707 28/7/21

NOTE—Contn. sheet.

989 M 5.5.21
Cr

Enc:- Five nominal rolls
Three memorials
One appendix to 1st memorial
of Subbiah
Two judgment Copies
+ re Cows

(14

23077

19
SECTION
Bangalore, 233-26.
Dated 3rd May 1921.

From

C.J. Sec. S.
MAY 1921

THE REGISTRAR OF THE

CHIEF COURT OF MYSORE.

To

CHIEF
THE SECRETARY TO GOVERNMENT,

~~GENERAL AND REVENUE DEPARTMENTS.~~

BANGALORE.

Sir,

I am directed to forward a memorial addressed to His Highness the Maharaja by 1. Dasi, 2. Subbayya, 3. Shamanna, 4. Basalinga Devaru, 5. Lakshminarasappa accused in Mysore Sessions Case No. 23 of 19 19-20 on the file of the Sessions Judge of Mysore Division and appellant in Criminal Appeals Nos. 59 & 60 / of 19 20-21 on the file of this Court.
Criminal Referred Case No.4 of 1920-21

The entire record of the case is herewith forwarded.

I have the honor to be,

Sir,

Your most obedient servant,

Registrar.

Tks.

GPB—1,000—16-8-12

15

Annexure to the memorial of Subbiah. Convict No: 17422 of the Mysore Jail. Memorandum of discrepancies in the evidence of Malliantayya. Prosecution witness No 15 in Mysore Session case on 23.9.1919-20.

Name of witness.	Stage at which the evidence was given	Reference to Printed records of the case	Substance of the evidence.	Remarks by the memorialist Subbiah.
Malliantayya aged about 65 years - 15th witness for the Prosecution in Mysore Sessions case on 23.9.1919-20	Inquest	Page 141	"Says "On Friday morning at batting time I had come to inspect the field ..... It then seemed to me that there was some assault. I was proceeding to see what it was. Then Aldur gangadhar Dasi and Subbiah ran away ..... Dasi had a chopper in his hand ..... I really saw from my eyes that Dasi cut the deceased with chopper."	It is clear from this that the memorialist had no chopper and that he did not beat the deceased, according to this witness at this stage. See also the Committing magistrate's Remarks line 41. page 119.
	Before the committing magistrate.	Pall 119. line 14	Says " I saw accused 1 and 2 cut Puttasamy but cannot say which of them exactly hit him"	For improvement. The witness includes the memorialist as taking part in the deed, gives a snatch to his hand and sees him beating the accused. But this is not definite.
	Before the Sessions Court.	Pall 61.	Says. "They (the choppers) were curved. The first accused's stroke fell on the neck. He struck two blows, one on each side of the neck. Then Puttasami fell down. Then the 2nd accused might have given some 50 blows."	Further improvement and quite definite as to the part by the memorialist. The medical evidence however goes to show that two instruments - one straight & one curved - must have been used.
		P 118. L. 38.	Says " I reached my field one hour before sunrise"	These are utterings of an old man who cannot realise the gravity of his statements
		P 118. ll 40.41	" " I saw accused 1 & 2 came walking to the halla; they arrived there just when the sun rose.	
		P 119. l 4	" It was cold meal time and cattle-letting time when Puttasami was killed	
		P 61 l. 31	" " I mean 'Dana bido hotthu' which means a little before midday.	

Prisoner Jail
30th April 1921

Marked before me
H Mercy Carter
Assistant Superintendent
30/4/21 Prison Jail

The memorialist

To

His Highness the Maharaja of Mysore.

The Humble memorial of Subbia convict no: 174 2
of the Mysore jail sentenced to suffer death in Mysore
Sessions Case no: 23 of 1919-20 and which sentence was
Confirmed in criminal appeal no: 60 of 1920-21 on the
file of the Chief Court of Mysore.

The memorialist humbly begs to submit as follows:-

1. The memorialist has been convicted of having murdered one Puttusamy of Aldur a village in Channarayapatna Taluk in the month of September 1919

2. The prosecution did not ~~attribute any~~ attributed any motive to the memorialist. He was merely the agent from whose hand the deed was accomplished.

3. A number of witnesses has been examined before the Court to prove that the deceased was seen in company of the memorialist on the morning of the murder but as the memorialists life is in jeopardy he will not weary your Highness with a narration of their testimonies because even placing reliance on them they lead only to the inference that the memorialist may have Concerted the murder, and such inferences are insufficient to send a man to his doom if there were not other materials to convict the accused. The memorialist therefore begs leave

to take your Highness to the evidence of the most important of all the witnesses cited against him - viz the one who alleges to have seen the memorialist actually committing the murder. To put the evidence of this witness whose name is Mahantayya as clearly as possible, the memorialist begs to present herewith a memorandum showing what this witness has stated and how, at different stages instigated, he has improved his statement at each stage of the enquiry -

4. The memorialist begs to add that this Mahantayya is aged about 65 years whose vision must have been considerably impaired. It is ordinarily not possible for a man of his age to distinguish human figures in a hollow about 1 furlong & 20 yards away from him and which hollow had been fenced. Yet the evidence of such an old man, who has made glaring discrepancies in regard to instruments with which the murder was committed the conduct of the memorialist, the part played by the memorialist, the time of murder, is believed and the memorialist sent to gallows.

5. The memorialist and the 1st accused Devi in the lesser case were enemies and the memorialist has been telling in any tribunal he was brought before the same thing. Being helpless in men & money he was not able to produce records bearing on the existence of this enmity and the Courts failed to heed to the memorialist's prayer to get them and have them perused, because such a step will

dis brow the theory that the memorialist joined the 1st accused & both committed the murder. The memorialist begs to submit that this aspect of the case may be thoroughly examined and decision obtained as to whether two persons so diametrically opposed to one another as the memorialist & the 1st accused can ever combine together and that for committing murder.

6. In conclusion the memorialist begs to submit that among a host of witnesses, the evidence of a senile old man is alone harmful to him and should not be relied upon in consideration of so many glaring discrepancies. The court have too readily believed in the combination of the memorialist with the 1st accused notwithstanding the very strained relationship that existed between them. No motive to murder the deceased has been limited by the prosecution. Notwithstanding all these flaws in the case, the conviction for murder is held just, the sentence of death is too severe as the memorialist is an young man just out of teens into an ~~age~~ young wife and children and aged parents (mother) hanging on him.

7. The memorialist therefore prays that your Highness will be graciously pleased to exercise your royal prerogative of pardoning the memorialist or at least give him a chance to live and die a natural death in jail.

left thumb mark
of B. Subbiah

marked before me

B. Macaulay
Superintendent Jail
30/4

Before the Government of His Highness

the Maharaja of Mysore.

Petitioners,

Shamanna	)	accused 3 - 5 now under sentence
Basalinga Devaru	)	of death in the jail at Mysore.
Lakshminaranappa	)	

Under section 401 of the Code of Criminal Procedure the accused 3-5 above named humbly pray that the records in Mysore Sessions Case No.23 of 1919-20 on the file of the Sessions Judge Mysore Division and in Criminal Appeals Nos.59-60 of 1920-21, on the file of the Chief Court of Mysore be called for and perused and the accused acquitted or the sentences atleast be commuted and remitted in part for the following reasons:-

1 The petitioners have been convicted for the offence of abetment of murder, the case against them being that they conspired with the other accused persons in the case for murdering one Puttasami, and instigated the 1st and 2nd accused to murder him.

2 The entire evidence adduced by the prosecution against these accused is summed up by the Sessions Judge in para 14, of his judgment printed on page 24 lines 20 to 45, of the printed

book

book.

3 A perusal of this part of the judgment will clearly show that even if the evidence be believed in its entirety it is quite insufficient even to raise a suspicion of guilt against the accused and therefore much less to support a conviction.

4.There is admittedly no evidence of instigation on the part of the petitioners to commit murder. Nor is there any evidence to show as to why the accused assembled at the house of the 3rd and 5th accused. Even the evidence to the effect that the accused met at the house of the 3rd and 5th accused is interested and discrepant in material particulars and is grossly improbable.

5.A perusal of the evidence of the only two witnesses examined on this point, Viz, Varada (PW 9) and Nanjunda (PW 10) will clearly show how it is false and how it has been improved at every step and how unreliable it is. It has also to be observed that these witnesses were examined many days after the police began the investigation; and after all their evidence only indicates that the accused met at the house of the 5th accused as they had often done as admitted by the prosecution witnesses themselves, and nothing more.

6.The two important ingredients to be proved satisfactorily by the prosecution in a case of conspiracy for murder are (1) that the accused combined and conspired together, and (2) that they did so for the commission of an offence of murder. In this case there is no evidence at all on this most important second ingredient and the evidence touching the first is false, improbable, interested and discrepant.

7.The only other evidence against these accused is that of (PW 11) Devaragudda and (PW 18) Marimallappa of whom the latter is admittedly an avowed enemy of these accused. These two witnesses do not at all prove any conspiracy and the attempt made by PW 18 to the effect that the accused had assumbled under margo tree has been clearly established to be an afterthought.

8.An important aspect of the case which shows the possibility of the murder having been committed at the instance of Marimallappa (PW 18), the sworn enemy of the petitioners,who in collusion with Devaragudda (PW 11) and others with the object of Marimallappa involving his enemies, the petitioners, and of Devaragudda securing the patell work, as he, it was, that was instrumental in bringing about the adoption and securing the patell office for the deceased Puttasami.

9.Both the Sessions Judge ~~the~~ and the Judges of the Chief Court have entirely failed to account for the hard fact that Mallamma, (PW 10) in the Committing Court) the mother's sister and foster mother of the deceased ever since his infancy, Nanjappa (PW 9 in the Committing Court) the natural father of the deceased and Muddamallappa (PW 6 in the Committing Court) the old adoptive father of the ~~deased~~ deceased have been ~~prss~~ prsistently and even without the fear of being prosecuted for purgery stoutly maintaining that the petitioners had nothing to do with the murder but that it was Devaragudda and Marimallappa that brought about the death of Puttasami; and have further erred in assuming that their evidence given at the time of the inquest was voluntry, free and with full knowledge of the statements contained thereir.

10.The motive put forward, Viz., differences between the deceased and these accused regarding the patell office - is far-fetched and quite insufficient to incite them to conspire for the murder of the deceased.

11. The convictions of the accused for the offence of abetment of murder are therefore unsustainable.

12. In any view - in a case like this in which the evidence is meagre and the convictions are based on assumptions, sentences of death are unduly severe, if not unwarranted.

13. The petitioners beg to submit that the Judges have taken a prejudiced view of the case. Even now should Government be pleased to refer the case to any other unbiased Judge for a decision or opinion, the petitioners firmly believe that the opinion will be in favour of these accused.

14. They therefore humbly pray that their case may kindly be reviewed and the convictions and sentences may be set aside - or atleast the capital sentence passed on them may be commuted and remitted in part.

15. In view of the importance, seriousness and gravity of the extreme penality visited on the petitioners, the petitioners most humbly, respectfully, and loyally pray that the Government may, before passing final orders, kindly and graciously be pleased to hear the petitioners' advocates on all the important points, both of fact and law, inasmuch as the judgments both of the Sessions Court and the Chief Court are singularly incomplete and wholly one sided.

sided. If the Government should consider it not feasible to hear the petitioners' advocates, the petitioners earnestly and humbly pray that they may be permitted to submit a written memo showing clearly the various important and salient points on which the Judges have not bestowed proper consideration and which they have failed to consider.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Signed before me

[illegible]

Superintendent 20/4
Mysore Jail.

Before the Government of His Highness the
Maharaja of Mysore.

Petitioner:- Dasegouda, 1st, accused now under sentence of death, in the District Jail, at Mysore.

Under section 401 of the Code of Criminal Procedure the 1st accused above-named humbly prays that the records in Mysore Sessions Case No.23 of 19-20, on the file of the Sessions Judge Mysore Division, and in Criminal appeals Nos.59 and 60 of 20-21, on the file of the Chief Court of Mysore be called for and perused and this accused be acquitted or at least, the sentence of death, be commuted and remitted in part for the following reasons.

1. This petitioner has been convicted for the offence of murder the case against him being that he in conjunction with the second accused, murdered one Puttasamigouda, at the instigation of accused Nos.3 to 5.

2. From the petition of appeal preferred by accused 3 to 5, it would be clear that the evidence regarding the conspiracy and the instigation, is false, improbable, unsatisfactory and quite insufficient even to raise a suspicion of guilt against the accused persons.

3. The only evidence adduced by the prosecution against this accused on the factum of murder, is, that of PW/5, Mahanthiah.

4. The evedence of this witness Mahanthiah is false, improbable highly

highly discrepant and thoroughly unreliable, having been got up by the arch conspirator PW/8, Marimallappa, to serve his own ends.

5. The learned Judges of the Chief Court have signally failed to realise in this case the hard fact that the Sessions Judge starts with a presumption of guilt against the accused as has been repeatedly found by the Judges of the Chief Court themselves and in the face of that conduct on the part of the Sessions Judge, erred in attaching any importance to the notes made by the Sessions Judge in the course of recording evidence of witnesses and in not having seen through the attitude of the witnesses to pose themselves as respectable witnesses, especially seeing that the Sessions Judge shows his anxiety from the beginning to enhance the value of the evidence of prosecution witnesses by indulging in un-necessary and un-called-for questions by Court and seeing that the accused could not be prepared to meet the false-hood uttered by the witnesses in answer to questions put by the Court.

6. I.The statement of Mahanthiah that he observed Puttasami being hacked with choppers by the 1st, and 2nd, accused and that the assailants ran away on seeing him, has been implicity though erronesously believed by the Chief Court in the face of his evidence given at the inquest viz., "It seemed to me that there was an assault; I was proceeding forward to see what it was, then Dasi and Subbiah ran away, the deceased was lying".

II."he Chief Court further erred in treating the vital discrepancies in the evidence of this witness Mahanthiah as "Apparent inconsistencies on points of detail", and in expalining away most un-satisfactorily and making very little of only two

two out of many and the least important of the discrepancies viz, the exact time of the occurence, and the exact part taker by the so-called assailants; regarding the exact time, the witness has used the expression Majjanada Hottu (i.e. bathing time 8 A.M.), at the inquest; but before the comitting Magistrate the witness said in the chief examination "In the morning 7 or 7-30 A.M., a little before bathing time", and in the cross-examination, the witness stated "I reached my field one hour before Sun-rise (6A.M) it was cold-meal time (9 or 10.A.M.) and cattle-letting time which the witness says a little before mid-day, when Puttasami was killed".

III.Regarding the part taken by accused 1 and 2, the Judges of the Chief Court have erroneously white-washed the witnesses evidence to the prejudice of the accused. The Judges of the Chief Court have failed to note the other important discrepancies in the evidence of this witness viz., "I saw accused 1 & 2, come walking to the Halla; they arrived there just when the Sun-rose; when I saw them, they were not quarrelling or pulling each other; they saw me but did not speak" before the committing Magistrate; but before the Court of Sessions, the witness has deposed "I saw accused 1 and 2 and Puttasami coming from the direction of my village; they came in the cart-track and approached the Hollow at a distance of 25 yards from me; choppers were hanging in their hands; from the Voni, they descended the valley; while Puttasami was struck, he was standing. I did not cry out when Puttasami was killed." All these and other discrepancies should only be construed as dubbing the witness as a false and got-up one and not as explained away by the Sessions Judge, the same explanation

having

27

having been copied out by the Judges of the Chief Court, As a matter of fact, this witness was not at all present in the village that day as was deposed to, by his own nephew, Subbiah PW 13 before the Committing Magistrate.

7. The only other evidence connecting this accused with the murder is that of PWs.16, 17 and 19. There is enough material in the evidence of these very witnesses that they are inimical to this accused and are falsely deposing against him at the instigation of Marimallappa, the Patel.

8. Absolutely, no motive has been alleged or proved against this accused, for committing the murder of an innocent lad and this accused belongs to a different caste altogether and is quite un-connected with the rest of the accused or the patell office and in spite of all this the Judges of the Chief Court have erroneously assumed a motive for this accused that he committed the murder at the instigation of the others.

9. The conviction of this accused for the offence of murder is therefore un-sustainable.

10. In any view, in a case like this in which the evidence is meagre and the conviction is based on assumptions, sentence of death is unduly severe, if not unwarranted.

11. The petitioner begs to submit that the Judges have taken a prejudiced view of the case. Even now should the Government be pleased to refer the case to any other un-biased Judge for a decision or opinion, the petitioner firmly believes that the decision or opinion will be in favour of the accused.

12. The petitioner therefore most humbly prays that his case may kindly be reviewed and the conviction and sentence may be set-aside or at least the capital sentence passed on him may be commuted and remitted in part.

13. In view of the importance, seriousness, and gravity of the extreme penality of the Law visited on the petitioner, the petitioner most humbly, respectfully and loyally prays that the Government may, before passing final orders, kindly and graciously be pleased to hear the petitioner's advocate on all the important points, both of fact and Law, in as much as the Judgments both of the Sessions Court and of the Chief Court are singularly in-complete and wholly one-sided. Should the Government consider it not feasible to hear the petitioner's advocate, the petitioner earnestly and humbly prays that he may be permitted to submit a written memo showing clearly the various, important and salient points on which the Judges have not bestowed proper consideration and which they have failed to consider.

14. [illegible] 200 [illegible] 40,000 [illegible] 10,000 [illegible]

DR.

[illegible]

15. [illegible]

16. [illegible]

Left thumb

Marked sign in

[illegible]

Superintendent.

Form No. 37]

Nominal Roll of Male* Convict No.† 1745 Name Lakshminarayappa Residence Ganagavoor, Chennarajanagar Taluk
(Village, Taluk and District) Mysore District.
Caste Smartha Brahmin Present age 28 Years Occupation Handloom and agriculture

WD 0195—GPB—600—10-1-19

Section and Code under which imprisoned	Original sentence and date of award	Adjudicating Court and number of Calender case in which convicted	Unexpired term of sentence after deducting remission earned			Present state of health and ~~fitness to undertake a~~ journey‡	Result of appeal (if any)	Conduct in Jail	Remarks
			Y.	M.	D.				
Sec 302 I.P.C	To suffer death 7-10-1920	Mysore Sessions Case No 23 of 19-20				Good	Confirmed in appeal by the Chief Court vide No. 1202-3 of 8-4-21	Good	

* Strike out and add, "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a casual or habitual, respectively, and after the latter, add the number of previous convictions, thus No. 3742, 3.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical officer.

Note.—For personal and descriptive marks——see reverse.

.....Mysore.....Jail.
.....29-6.....1921.

Reverse

Personal and descriptive marks.

(To be given in respect of escaped prisoners only with reference to Rules 501-2, Jail Manual.)

H Narayana 3-7-21
Superintendent.
Mysore Gaol

Form No. 37]

Nominal Roll of Male* Convict No.† 1741 Name Kasi Residence Aldoor, Chamarajanagar Taluk Mysore
(Village, Taluk and District) District
Caste Vakkaligar Present age 32 Years Occupation Cultivation

WD 0195—GPB—600—10-1-19

Section and Code under which imprisoned	Original sentence and date of award	Adjudicating Court and number of Calender case in which convicted	Unexpired term of sentence after deducting remission earned			Present state of health and fitness to undertake a journey‡	Result of appeal (if any)	Conduct in Jail	Remarks
			Y.	M.	D.				
Sec. 302. I. P. C.	To suffer death 7-10-20	Mysore Sessions case No. 23 of 19-20				Good	Confirmed in appeal by the Chief Court vide order No 1204-5 E.B. Dated 8-4-1921	Good	

* Strike out and add, "Female" when necessary.
† After the prisoner's number, add his class A or B, according as he is classed as a casual or habitual, respectively, and after the latter, add the number of previous convictions, thus No. 3742, 3.
‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical officer.
Note.—For personal and descriptive marks——see reverse.

.....Mysore.....Jail.
...29-4-.....1921.

Reverse

Personal and descriptive marks.

(To be given in respect of escaped prisoners only with reference to Rules 501-2, Jail Manual.)

H Keenyake 30/4
Superintendent.
Mysore Gaol

Form No. 37]

Nominal Roll of Male* Convict No.† 1743 Name Shamanna Residence Ganaganoor. Chamarajanagar taluk
(Village, Taluk and District) Mysore District.
Caste Smartha Brahmin Present age 40. Years Occupation Shanbhog and agriculture.

WD 0195—GPB—600—10-1-19

Section and Code under which imprisoned	Original sentence and date of award	Adjudicating Court and number of Calender case in which convicted	Unexpired term of sentence after deducting remission earned			Present state of health and fitness to undertake a journey‡	Result of appeal (if any)	Conduct in Jail	Remarks
			Y.	M.	D.				
Sec. 302 I.P.C.	20 Imprr dealt 7-10-1920	Mysore Sessions case No 23 of 19-20.				Good	Appeal confirmed by the Chief Court vide order No 1209-23 dt 2-4-1921	Good	

* Strike out and add, "Female" when necessary.
† After the prisoner's number, add his class A or B, according as he is classed as a casual or habitual, respectively, and after the latter, add the number of previous convictions, thus No. 3742, 3.
‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical officer.
Note.—For personal and descriptive marks——see reverse.

....Mysore.....Jail.
...29-4-.....1921.

Reverse

Personal and descriptive marks.

(To be given in respect of escaped prisoners only with reference to Rules 501-2, Jail Manual.)

B Kempaiah 3574
Superintendent.
Mysore Gaol

Form No. 37]

Nominal Roll of Male* Convict No.† 1742 Name Subbaiah Residence Aldoor Chamarajanagar Taluk, Mysore.
(Village, Taluk and District) District

Caste Siriachar-Hindu Present age 38 Years Occupation Cultivation

WD 0195—GPB—600—10-1-19

Section and Code under which imprisoned	Original sentence and date of award	Adjudicating Court and number of Calender case in which convicted	Unexpired term of sentence after deducting remission earned			Present state of health and fitness to undertake a journey‡	Result of appeal (if any)	Conduct in Jail	Remarks
			Y.	M.	D.				
Sec. 302 I.P.C.	20 suffer death 7-10-1920	Sessions Case no 23 of 1919-20				Good	Confirmed in Appeal by the Chief Court Vide order 1204-5 C.B. Dated 6-4-1921.	Good	Good Alla

* Strike out and add, "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a casual or habitual, respectively, and after the latter, add the number of previous convictions, thus No. 3742, 3.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical officer.

Note.—For personal and descriptive marks——see reverse.

.....Mysore...Jail.
..29-6-.....1921.

Reverse

Personal and descriptive marks.

(To be given in respect of escaped prisoners only with reference to Rules 501-2, Jail Manual.)

Superintendent.
3/74
Mysore Gaol

of

In the Court of Sessions, Mysore Division.

Dated, Mysore, 7th October 1920.

PRESENT

D. [illegible] L., Esq., Barrister-at-Law,

Sessions Judge.

EXCHEQUER SIDE CASE NO. 23 of 1919-20.

Complainant.		Accused
Government of Mysore.	Vs.	1. Deoi.
		2. Subbaiya.
		3. Bhimanna.
		4. Doddiyandavaru.
		5. Lakshminarasappa.

Charge:- Against accused 1 and 2:- Murder under section 302, I.P.C.

Against accused 3 to 5:- Abetment of murder under sections 302/109, I.P.C.

JUDGMENT.

The prisoners Nos. 1 and 2 (Deoi and Subbaiya) are indicted for the murder of Patel Puttaswami of Aldur at Ambrehalli near Hojjibetta, Chamarajanagar Taluk, on 26th September 1919 and the prisoners Nos. 3 to 5 are indicted for abetment by conspiracy of the commission of the offence of murder of Putta

swami

cri i cy prisoners Nos. Exhs 1 and 2.

The prosecution story, as sought to be established by the evidence, may be briefly stated:-

One Sudar Pillai who died during the trial of this case, was a registered holder of the office of Patel of Idur. He had no issues. He applied to the authorities in 1909 to have one Sevilur Krishna Gounden appointed as his deputy to perform the duties of the Patel on the ground that he was decrepit. The 4th prisoner opposed this application and put forward his claim to the office on the ground that he was an agnate and had a better title than Krishna Gounden an utter stranger to the family. In this he was strongly supported by Perayatchi, the wife of Sudar Pillai and his other male relations. This dispute went on till 1914 when the 4th prisoner eventually succeeded in getting the appointment as Kumatti Patel.

Sudar Pillai, however adopted a lad named Putta [illegible]an, and applied in August 1918 to the authorities to have him appointed Patel. In January 1919 Kuttammal was appointed Patel. As soon as he was appointed, the 4th prisoner was ordered to hand over charge of the office. He preferred an appeal in February 1919 contending that Kuttammal was but a boy and was unfit to be Patel, and began to obstruct Kuttammal in his work as Patel. In March 1919 he openly defied his authority and began to collect assessment with the active help of his friend the 5th prisoner who is the Chanthogue of Aldur. Kuttammal complained to the Collector. The matter was enquired into with the result that the 5th prisoner was suspended and the 4th prisoner was ordered not to interfere in the work of Patel Kuttammal. The 3rd prisoner who is brother-in-law of the 5th prisoner and lived in the same

once house with the letter , was temporarily placed in charge of the office of Kanthoppe. He also began to give trouble to Puttaswami by helping the 4th prisoner and in consequence Puttaswami complained against him. The 5th prisoner submitted a petition alleging that Puttaswami was a young lad having vicious habits and that he was not a competent person to be a Patel. After he was examined he vowed vengeance against Puttaswami. He and the 3rd prisoner were in league with the 4th prisoner and were trying to oust Puttaswami. Their attempts to get an order from the Deputy Commissioner, were staying the execution of the order of Sub Division Officer appointing Puttaswami were not successful. Their sworn enemy was wounded at the hostile attitude taken up by the young lad and he was successful in his attempts to get them punished for interfering with the order of the constituted authority and collecting Rs. 204-4-5 from a number of ryots and putting up ryots by threats and persuation not to recognise Puttaswami as Patel.

Muddu Malliya was a very old man of about 90 years of age. He had children. He is the grandson of Alduraya by his second wife, Kattadiya one of the confederates and he is succeeding to the present grandson by the first wife of Alduraya and the 4th prisoner is the son of Kattadiya's brother. Under Malliya did not favour the appointment of his grandson to get the Patel's office while his wife Parvatamma joined the 4th prisoner. They fought out the matter from 1909 to 1914. When he was defeated, he conceived the idea of adopting Puttaswami who was related to him through his concubine Jevaramma. He had a son by Jevaramma who predeceased him by leaving a widow Mallamma. Mallamma had a younger sister who was married to Mangala. She died after giving birth to Puttaswami . This boy was brought up by Malliya from his infancy. Muddu Malliya came to be under the influence of his relatives through his

concubine

concubine and was hostile to the interests of his agnate relations. After he was defeated in his attempt to deprive his agnate relations of the office of Pateli, he adopted Putta ... i as his own after the death of his wife. This adoption naturally caused great disappointment and irritation to the ... nstor viz., Pattadaiya and 4th prisoner. This was accentuated ... the appointment of Puttaswami as Patel and by his hostile attitude as stated above.

While the matters stood thus, the prisoners Nos. 1 to ..., viz., the brother of the 2nd prisoner and brother-in-law ... 4th prisoner, and Pattadaiya his uncle, who are absconding ... order to evade trial, conceived the scheme of murdering ... i, the prisoners Nos. 3 to 5 and Pattadaiya designed ... and inspired the work. They engaged the services ... the prisoners Nos. 1 and 2 who were friendly to Puttaswami ... commit this brutal murder. The first prisoner is a petty ... ker of Kolur and the 2nd prisoner is the brother-in-law ... 4th prisoner. All these conspired to commit the offence. ... waited for an opportunity to decoy Puttaswami and take ... to some lonely place and there commit the dastardly act.

The opportunity offered itself on the 25th September ... The Police of Kolur sent information through ... Constables to the Patel and Lambhagowda of Gonagonur to go ... the Police Inspector's Club office immediately to receive their ... which was sanctioned by the authorities. Gonagonur ... and villages under the management of Government. The ... object of the Sheikdars in securing the attendance of the Patel ... Lambhagowda of Gonagonur immediately was to see to the distribution of notice to these village officials and to enforce the payment of arrears of Sandayam due by them out of the Potige ... sanctioned by the Deputy Commissioner, before the

commencement

commencement of Dasara holidays on 1st October 1919. Varada came on this errand on Thursday the 25th September 1919 to Gangavur where a fair is held on every Thursday in the week. He met the 3rd and 5th prisoners who are the residents of Gangavur. On their questioning, he informed them that he had gone there to deliver the Potige to the Patel and Shanbhogue of Gangavur. This was just after 12 noon. Learning this news, they left him. All the prisoners, Lalliayya and Puttadaiya had assembled under a peepal tree a mile from Gangavur. After this meeting, the 3rd and 5th prisoners met Varada while he was just then leaving the fair. The 3rd prisoner requested him to go to Aladur and inform the Patel Puttaswami to go to Chamarajanagar next day to receive this Potige on the ground that he was not on speaking terms with him and that even if he attempted, the Patel would not believe him. Varada pleaded his inability to go to Aladur as he had pain in his legs. Then the 3rd prisoner persuaded him to send this information through Devaraguddu who was a friend of Puttaswami and a resident of Aldur and has come to the fair on that day. Varada being ignorant of the trick played on him, believed the 3rd prisoner's version, viz, that he as shanbhogue of Aladur was going to Chamarajanagar the next day to receive his Potige along with the village officials of Gangavur and that Puttaswami's presence was also necessary, and asked Devaraguddu to inform Puttaswami to go to Chamarajanagar the next day to receive Potige and that Shanbhogue was also going there. Devaraguddu was assured by the 3rd prisoner who was also in company with Varada and 5th prisoner then. He told Devaraguddu that he was going to Chamarajanagar the next day to receive Potige as Dasara holidays would intervene and that Puttaswami also should go the next day to receive his Potige. Devaraguddu had no reason to suspect any foul play especially a Government servant had told him to convey the in-

formation

information to Puttaswami. It was ingeneously contrived to use the presence of Varada for the purpose of decoying Putta swami the next day.

Accordingly Devaraju conveyed the information given by Varada and the 3rd prisoner invited him to go to Chamarajanagar for meat etc. Devarajudu was deliberately selected, for he was a friend and partisan of Puttaswami and was helping him in his work as a hotel. Puttaswami implicitly believed the information and took the advice of his friend Devarajudu and consented to go to Chamarajanagar the next day. Early morning of the 16th September 1919, Puttaswami hurriedly took his cold meal and put some food carried in a bundle and 4 annas for expenses and wended his way to Chamarajanagar.

The 1st and 2nd prisoners offered to accompany him on the pretext that they were going to Ummatur, a village on the way to Chamarajanagar. This was prearranged, for the prisoners Nos. 1 to 5, Mallaiya and Puttaiya had met in the house of prisoners Nos. 3 and 5 on the night of 15th September 1919 and had devised the means of accomplishing their scheme.

The prisoners Nos. 1 and 2 and Puttaswami were seen passing in the foot path in a cart track leading from Aladur to Ummatur via Nevalur. One Subbaiya of Nevalur first met Muttina Mallaiya one of the prisoners now absconding, in the early morning of Friday the 17th September 1919 when he was going to inspect his field. When questioned Mallaiya stated that he was going to Nevalur. After he went towards Nevalur side, Subbaiya met the prisoners Nos. 1 and 2 and Puttaswami coming from Aladur when he had just passed 4 or 5 fields towards Aladur from the point where he saw Mallaiya. He questioned Puttaswami where he was going, the latter replied him that he was going to Chamarajanagar. When he questioned where his companions were going, he replied that they were accompanying him.

Both parties then parted - Subbaiya went towards his field which lay between Kovalur and Aladur and Puttaswami and his companions went in the foot path leading to Ummatur. Just a little while after, Puttaswami and his companions were seen passing in the same footpath near a mantop marked B in the plan, by Channe Gowda who had slept at the mantop on the previous night in order to get his jola winnowed early morning. Channe Gowda observed these persons going in the cart track which passes in front of the mantop and heard a conversation between the passers-by at a point C close to the mantop where two roads meet - one leading to Gangamur and the other to Ummatur also - to the following effect:- " Puttaswami turned to go in the path leading to Gangamur when the 1st accused said, 'they might have gone away by this time. They could not have remained till now. Let us go by the Ummatur road.' ..... The three persons then took the road leading to Ummatur."

By this, it is clear that the object of Puttaswami was to go to Gangamur in order to accompany the Patel and Shanbhogue of that village to Chamrajanagar and that his companions dissuaded him by saying that it was useless to take a circuitous way on the off-chance of finding the village officials who were not expected to leave their village earlie to Chamarajanagar.

When the party proceeded and at the point F they turned towards Ummatur. The path lay in a hollow in a valley called Kadabahalla. They were seen by the owner of Survey No. 130 Puhantayya who had gone to his field early morning to inspect the standing crop. Puhantayya is an old man of about 60 years of age and is hard of hearing. While he was going round his field, he observed Puttaswami who was known to him, being cut irregularly with choppers by prisoners

Nos. 1 and 2 at a point marked L, which is about 150 yards from his field. As soon the residents saw him then they ran away towards the direction of Patel and Sugalur villages. These assailants and Pallaiya were seen two miles away from the scene of occurrence by some peoples after sun rise on Friday when the corpse was carmitted, going from west to east.

These three persons then wended their way to a village called Kuryu about three miles from Kavalur and went to the shop of Puttamma who was vending viands, to wit, kadabus ⁊ (a preparation from powdered rice which the labourers and others take in the morning), and purchased kadabus for 6 annas they then absconded in order to evade arrest and trial. The other prisoners Nos. 3 to 5 and Puttaraiya also absconded to evade arrest. All the prisoners except No. 2 who was arrested at a hiding place on 11th October, surrendered before the committing Magistrate after a proclamation was issued under section 87, Criminal Procedure Code on 21st November 1919. News of the murder of Anthoni Swami soon spread in the villages of Kavalur, Sugalur and Pallipattu where the Patel Mari Pallappa was living. The Police with proceeded to the spot and sent an report to the Police Station. The report reached the Police Inspecting [illegible] at about 9 A.M. on 26th September 1919 and the Inspector proceeded to the spot on that night followed by the Sub-Inspector next day.

After the arrival of the Assistant at 1.30 P.M. on 27th September 1919, he commenced Enquiry proceedings and examined all the important witnesses for the prosecution on 27th and 28th September 1919. The Inspector of Police took up the investigation with the result the prisoners are brought to trial before this court.

3. All the prisoners plead not guilty. They have made

long

long statements both before the Magistrate and before this court.

4. The first prisoner's plea amounts to this.-

Chenne gowda, Patel Narimallappa, Subbiah and Mahanth (prosecution~~xxxxxxxxx~~ witnesses) have conspired to concoct this case. His elder brother is living with Power Madia of Mysore. They have been lending money to others through him. A decree was made against Chenne gowda and that he helped the decree holders in execution of his decree and that he went with the Amin to attach Chenne gowda's house. Hence there is enmity between him and Chenne gowda. Narimallappa owes Rs. 300/-. He demanded interest due on the debt. Hence enmity between the two.

In this court, he adds one more cause of enmity between him and Chenne gowda. This is in briefly that Chenne gowda kidnapped a girl from the lawful custody of her guardian , that he , his father and others complained to the police and that the girl was handed over to the custody of her father.

For the first time before this court, he states that there is an enmity between him and Subbia in connection with a land and that he filed a complaint of assault and trespass against the 2nd prisoner and his brother Mallaiya about 3 years ago and that the accused were acquitte

5. The plea of the 2nd prisoner is briefly that he is the brother-in-law of the 4th prisoner, and that since the latter was fighting about the Patel office, he who is his relation, has been implicated in this false case.

6. The plea of the 3rd prisoner is briefly as follows:-

That he did not send word to Puttaswami, that he

is

43

is ignorant, that Verada (P.W.9) forcibly entered into the house of one Manji of Aladur, that on her complaint, he got a panchayet convened, and got him fined Rs. 10/- which was recovered, and that in consequence he is his enemy. That all the properties of Manjunda (P.W.10) have been acquired by him, that he alienated the properties to others and has set up the alienees against him and that in consequence there is dispute. As to Mari Mallappa, he has succeeded to the Patell office which was formerly held by this prisoner. Hence enmity between them. That the Police Inspector was living in the house of one Lakshmi, that the prisoner was her paramour and was going to her house to help her in making a will, and that the inspector prevented it and in consequence there is enmity between them.

Before this court for the first time, he suggests a reason for the Amildar to be dissatisfied with him. He says that owing to an anonymous application presented against him to the District office, the Amildar suspects him to be the author of it.

7. The 4th prisoner's plea runs as follows:-

" Mari Mallappa and the 3rd prisoner are enemies. I am a friend of the latter and in consequence Mari Mallappa has dragged me into this case. It is true that there had been a dispute regarding the claim to the office of Patel. But there was no such enmity as to commit murder. I have not committed any offence."

8. The 5th prisoner pleads as follows:-

Devara Gudda and his brother Mallish had ill-will towards me. Their father had obtained a land for Rs. 2/- on a Larkhast. One Vidlingiana Madiah desired to obtain

that

that land. He asked him to put in an application. On his application the land was finally knocked down to Rs. 450/- at an auction. For this act, the enmity arose. He was a school master at Chuchelur about 2 years ago. The Amildar sent for him and appointed him as Chanbhogue as he was Karnavarddar. Two months after he was suspended by the Amildar. He preferred an appeal which was dismissed. He does not know whether it was decided to give him the appointment or not. He had preferred a complaint against Hari Mallappa before the Sub Division officer at Nanjangud for attempting to cut him down. So there is ill-will between him and Narimallappa. Murder was committed on a Friday and the case (mentioned above) was for hearing on the following Saturday. Seeing this, Narimallish has concocted this case against him.

9. The testimony of Dr. Papish Naidu senior Sub Assistant Surgeon of Periyapatna, and of prosecution witnesses Nos. 11, 13 to 16, 18 to 23, shows clearly that Puttaswami aged 20 years, patel of Aladur was, in the early morning of 26th September 1919, murdered with the most brutal and savage ferocity. It is not disputed that he ~~was~~ was so murdered. Twenty four wounds were found to have been inflicted upon his body, all upon the head, neck and shoulder, arms and hands. Five of these were very severe and five more were also severe but not so severe as the first five wounds and the rest were not severe. Most of them could only have been inflicted with two kinds of sharp instruments used with very great force.

For instance, wounds Nos. 6, 7, 8, 9 and 20, 10, 11, 12, 13, and 24, described in the post mortem certificate

and

45

and deposed to by the medical man, may be noticed. Wound No. 6 was an incised wound on the right side of the head, frontal region, three inches long, half an inch wide, and two inches above the forehead. Another, No.7, was an incised wound, two and half inches long, one third of an inch wide, a little below the wound No. 6, over the right side of head above the eye-brow. No. 8 was an incised wound, five and half inches in length and one third inch broad, extending from the right eye-brow to the margin of the ear which had been cut and divided. It was gaping. No. 9 was an incised wound, five inches long, one and half an inch in gaping, from the middle of nape of the neck extending as far as the angle of lower jaw on the right side. The structures and upper part of the internal jugular vein and carotid artery were cut.

No. 20 was an incised wound, one and three-fourths of an inch long and one third inch in gaping on the right forehead from left outer eye-brow to left temple.

No.10 was incised transverse wound five inches long, One inch gaping, on upper part of right cheek, cutting the bridge of the nose.

No. 11 was an incised wound three inches long, three fourths of an inch deep, from middle of right cheek to the side of nose, near nostril, and one third inch below No.10.

No.12 was a similar one five inches long, three fourths of an inch deep, from middle of right cheek , on the upper lip, reaching left side.

~~No.13 was a similar one five inches long, three fourths of an inch deep, from middle of right cheek , on the upper lip, reaching left side.~~

No.13 was a similar one three inches long, three fourths of an inch deep on the right side of lower jaw extending to chin.

No.24

No. 24 was an incised wound five inches long, three-fourths of an inch deep, over the left lower jaw situated between its body and lower ridge extending up to the symphysis.

Two more wounds Nos. 1 and 2 deserve notice. Wound No.1, was an incised wound two and half inches long, one and half inch deep, over the upper or outer part of right shoulder. Wound No. 2 was an incised wound two and a quarter of an inch long and one inch deep over the right arm, two inches below the right shoulder. The other wounds were all incised wounds inflicted on the right arm, right forearm, shoulder joint, left hand and left cheek.

There were ten fracturer of bones. Those that were very severe, are the right and left side of frontal bone, upper part of nasal bones divided transversely, and upper jaw fractured obliquely and lower jaw.

Wound No. 9 was alone sufficient, according to the evidence of Mr. Ravia Naidu, to kill Puthasami and wounds Nos. 6 to 8 and 20 were severe enough to cause the congestion of the brain. He thinks that these wounds must have been caused by weapons such as sickle, axe, knife, and machu or bechi, that death must have been instantaneous, and that neck was half severed from the body but were still sticking to it.

The fact that there must have been more than 15 strokes given, and the wounds might not have been caused by the one and the same weapon and the presence of wounds on the forearm and hands of the deceased, would indicate in his opinion that Puthasami was murdered by two persons using different weapons while he was struggling to protect himself.

10. The important questions for decision, therefore, are whether the prisoners are the authors of this dastardly

act

not on the Periyallapar and Devarrgudda have composed (illegible) in order to implicate the 5th prisoner as alleged by the defence. The answer to the last question depends on the credibility of the witnesses examined on behalf of the prosecution.

31. Motive.- As re motive, the evidence on the record is singularly free from doubt. In fact, the contention of the prisoners Nos. 4 and 5 shows clearly that there was a dispute regarding the Patell office as alleged by the prosecution. The 5th prisoner admits that he was succeeded by the Collector.

Exhibits A27 to A30 and A14 show that Kudda Kallia applied to the Collector of Chamarajanagar in 1909 to appoint him Kichnu Kudda on Patel Kumaru, that the 4th prisoner objected by Parvatamma the wife of Kudda Kallia and by his other relations, opposed this appointment, that he succeeded in getting an order in his favour by the Deputy Commissioner in May 1910, that Kudda Kelliah did not acquiesce in that order and appealed against it, and that after contested litigation lasting over 5 years, the 4th prisoner was appointed Patel Kumaru in January 1914 (vide Exhibit A14) on the ground that he is an agnate and in consequence has a better claim to the office.

Two facts stand out clearly from these proceedings. One is that Kudda Kelliah alone was strenuously opposed to the appointment of 4th prisoner whereas his own wife and other relatives favoured his appointment and the other fact is that the 4th prisoner was very keen on succeeding to the hereditary office.

Subsequent to his appointment in January 1914, he continued to hold it till January 1919 when an order was passed

passed by the Sub Division officer appointing Puttaswami as Gurusta Patel.

Sudda Mallish being defeated at first, cleverly conceived the idea of adopting Puttaswami who is related to Lalleamma the widow of his eldest son by his concubine Jayamma. By this act, all hopes and aspirations of persons who could have succeeded to his estate but for his adoption, and to the Patel's office disappeared and the fruits of the labours of the 4th prisoner in keenly fighting out his cause for 8 years were snatched away from him.

Exhibits P1 to P16 show that the 4th prisoner was ordered to hand over charge of his office to Puttaswami on 10th January 1919, and that he preferred an appeal against the order of appointment of Puttaswami on the ground that he was a minor and incompetent to hold the office.

Exhibits P3 and P4, P16 and P17 show clearly that Puttaswami complained against the conduct of 4th and 5th prisoners. In these Puttaswami mentions the various acts of these prisoners. These in brief consist of the prisoners Nos. 4 and 5 defying the order of the authorities and refusing to recognize him as Patel and setting up Ryots against him and by discarding them from paying assessment to his hands, and trying to make him unfit to hold the office and of unauthorised collection of the assessments by the 4th prisoner after he was ordered to hand over charge with the help of the 5th prisoner (Vide Exhibits P9 to P15). Exhibits P5 to P8 show that after an inquiry, these allegations were found to be substantiated and that in consequence the 5th prisoner was placed under suspension, 4th prisoner was forcibly removed from the office: and that the 3rd prisoner who is the brother-in-law of 5th prisoner was

appointed

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appointed to act as shrabhogue. After the appointment of 3rd prisoner, the matters did not very much improved, for he was frequently visited with his brother-in-law and began to cause trouble to the hotel in the way of collection of arrears. Exhibits W9 to W12 show that Puttaswami complained against the 3rd prisoner and the Chairman held an enquiry into this complaint on 10th August 1919.

There is no corroborance of oral evidence to prove the matters contained in these exhibits and to show a covenant between the prisoners nos. 3 to 5 in order to work against Puttaswami. Even the deposition of Judge Kalliah exhibit W7 relied on by the defence shows clearly, that the 4th prisoner owed vengeance to Puttaswami and was determined to avenge the wrong done to him.

Exhibit W1 is a report made on 10-8-1919 1919 by the 4th prisoner to the authorities against Puttaswami. It contains various allegations of misconduct against Puttaswami and the object of the writer was clearly to see him removed from the office. This evidently betrays the desire of revenging either a fancied or real wrong done to him by Puttaswami who had complained against him a few days before and eventually got him suspended.

For these reasons I must conclude that the motive suggested by the prosecution is proved.

12. It is strenously argued that the motive proved is not adequate for the commission of this brutal murder. In this connection, it may be pointed out that the application of rough and ready process of induction drawn from the estimate of what is probable in the mental economy of an average man under a given set of circumstances, is not

always

always a reliable guide.

"Men are not all of average mental hue or constitution, and it does not follow that because there is something there which would lead to crime in one man or many men, that would necessarily lead to crime in the case under consideration. Many a murder has been committed for the sake of a very few pounds, and yet there are hosts of people to whom millions would not offer the slightest inducement to anything of the kind."

A learned author who was also an eminent judge, observes as follows:- 'The common inducements to crime are, the desire of revenging some real or fancied wrong, of getting rid of a rival or an obnoxious connection, of escaping from the pressure of pecuniary or ~~mathem~~ other obligation or burden, of obtaining plunder or other coveted object, of preserving reputation, either that of general character or the conventional reputation of profession or sex, or of gratifying some other selfish or malignant passion. But it is of the essence of moral weakness that it forms a mistaken estimate of present good, and a want of proportion will therefore of necessity be found between the objects of desire and means employed to obtain them. The assassin's dagger may be put in requisition for a few pieces of gold, and the difference between that and other inducements to crime is a difference of degree. In a sense indeed, and according to the standard of absolute morality there can be no such thing as an adequate motive to the commission of crime.' (See Wills on ~~ex~~ circumstantial evidence p.p.59 and 60. 6th Edition). It should, however, be remembered that there may be motives which no human being except the party himself can divine. The motive can only be taken as a satisfactory circumstance of corroboration along with convincing facts of conduct and deserves per se no weight. The tribunal has nothing to do with motives.

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Actions, as the result of motives are the only legitimately cognizable subjects of human laws. It is however, undoubtedly a principle of English Law, that ordinarily speaking a crime is not committed if the mind of the person doing the act in question be innocent. The maxim is "Actus non facit reum, nisi mens sit rea". i.e., The intent and act must both concur to constitute the crime. (Fowler Vs. Padget, 7 T.R.509, 514,; Reg. Vs. Tolson, 23 Q.B.D. 168 at page 172). But this is not an inflexible rule. There is a large body of municipal law which form an exception to this rule. The doctrine of adequacy of motives to crime is well summed up by Lord Campbell as follows:- (Reg.Vs.Palmer, Shortland Report at page 308).

" With respect to the alleged motive, it is of great importance to see whether there was a motive for committing such a crime, or whether there was not; or whether there is an improbability of having been committed so strong as not to be overpowered by positive evidence. But if there be any motive which can be assigned, I am bound to tell you that the adequacy of that motive is of little importance. We know, from the experience of criminal courts, that atrocious crimes of this sort have been committed from very slight motives; not merely from malice and revenge, but to gain a small pecuniary advantage, and to drive off for a time pressing difficulties."

In the present case, the inducement to commit the crime on the part of the 4th prisoner is to get rid of a rival claimant to the hereditary office of Patel which must naturally go to him in the absence of an adopted boy to Sudda Mallah, on the part of 3rd and 5th prisoners, the inducements to crime are, first, the desire of revenging some real or fancied wrong done to them by Puttaswami and

secondly,

secondly, of gratifying some selfish or malignant passion. That an inexperienced and common lad like Puttaswami should complain against these intelligent men having some influence in the village and lower their prestige cannot be said to be a very slight cause, especially when their amour propre was wounded and when their influence was waning in the village.

For these reasons, no weight can be attached to the argument advanced by the advocates for the prisoners.

13. Conspiracy.- I now pass on to the consideration of the evidence on the record in respect of conspiracy. In estimating the value to be attached to and in drawing the necessary inference from, the evidence in the case, we have to bear in mind the points of view which have been indicated in decided cases and laid down in the statutes.

Conspiracy is not a substantive offence in India. Section 107 of the Indian Penal Code, lays down, however, the law of abetment of a crime which incorporates in it the crime of conspiracy.

When the abetment is by conspiracy, the elements constituting the offence are under clause 2 of section 107, first, the combining together of two or more persons in the conspiracy, and secondly that an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing.

In explanation 5 to section 108, I.P.C. we have it that: " It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the persons who commit it. It is sufficient if he engage in the conspiracy in pursuance of which the

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the offence is co mitted."

This is in accordance with English law, for in Russell on Crimes and mis demeanours, (Vol.1, 6th edition 492), we have the following statement. "Conspiracy is stated to be a crime, which consists either in the combination and agreement by persons to do some illegal act, or a combination and a reement to effect a legal purpose by illegal means, and the crime of conspiracy is complete, if two, or more than two, should agree to do an illegal thing; that is, to effect something in itself unlawful or to effect by unlawful means something which in itself may be in different or ~~xxx~~ even lawful.

And at page 529, we have this:- "Where several persons are proved to have combined together for the same illegal purpose, any act done by one of the party , in pursuance of the original concerted plan and with reference to the com on object, is in the contemplation of law the act of the whole party; and ~~thexfxxex~~ therefore the proof of such act would be evidence against any of the others, who are engaged in the same conspiracy; and further any declarations made by one of the party at the time of doing such illegal act, seem not only to be evidence against himself, as tending to determine the equality of the act, but to be evidence also against the rest of the party, who are as much responsible, as if they had themselves done the act."

In this connection section 10 of the Evidence Act may be referred to. It runs as follows: "Where there is a reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong , anything said, done or written by any one of such

persons

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persons in reference to their common intention, after the time when such intention was first ascertained by any one of them is a relevant fact as against each of the persons believed to be so conspiring as well for the purpose of proving the existence of the conspiracy, as for the purpose of showing that any such person was a party to it."

The operation of this section is conditional upon there being reasonable ground to believe that two or more persons have conspired together to commit an offence. This being shown, anything said or done or written by any one of such persons in reference to their common intention may be proved both for the purpose of proving the existence of the conspiracy as also for showing that any such person was party to it. (See 2[illegible] Cal. 804, and 37 Cal 467 at 504)

A conspiracy need not be established by proof which actually brings the parties together, but may be shewn, like any other fact, by circumstantial evidence. (See Ameer Ali and Woodroffe on Evidence Act page 154, 6th Edition).

As remarked by Sir Lawrence Peel C.J. in the case of R. Vs. Hodger (1852) Starkie on Evidence page 132, " it is perfectly true that dark covertness of crime cannot often be laid upon , ~~xxxxxxxx~~ that conspiracies like other crimes must be generally supported by circumstantial proof."

It is of the very essence of conspiracy that the conspirators should plot and act in secret. Direct evidence of agreement is not, therefore, always available. It has to be established by the evidence of acts and conduct which ~~xxxxx~~ connect the crime with common design and in which the conspirators have probably been all assigned a part.

(See

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(See King Vs. Grimes, 4 East 164 and at page 171).

14. Now, I shall examine the evidence from the points of view which have been just indicated.

The testimony of Varada (P.W.9), Nanjunda(P.W.10), Devarajudda(P.W.11) and Hari Gallappa (P.W.18) is relied on to prove conspiracy and subsequent acts of the confiderates.

Varada is a peon attached to the office of Cheikdar of Ammatur Hobli. He deposes to all the circumstances detailed in the 2nd paragraph of this judgment and it is unnecessary to recount them here. In addition to it, he swears that when he went to sleep on the pial of 5th prisoner's house on the night of 25th September 1919, he found the door closed, he called for the Chenbhagle, to give him a mat, the 5th prisoner then came and asked him to take a mat lying on the bracket used for storing grain, that the witness entered the house and found all the prisoners and absconding prisoners (Mallaiya and Pattedaiya) seated in that house. This was at about 9 P.M. on that day. He is corroborated by Nanjunda who was sleeping on the pial of 5th prisoner's house. Nanjunda has further deposed that before lamp lighting time on Thursday (25-9-1919), he saw the prisoners Nos. 1, 2, 4, Mallaiya and Pattedaiya entering the house of the 3rd and 5th prisoners and 3rd prisoner closing the door, and that he was sitting on their pial when this was done. He gives the reason why he was always spending his spare hours on the pial of that house close by his own. He says that he is a worshipper in a temple in the village, that his house had only a room not sufficient to accommodate all and that in consequence he was using the pial of the prisoners Nos. 3 and 5 which is a spacious

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one and two sleeping there always. Kari Gallappa swears to the fact of all the prisoners, and absconding prisoners combining together xx and were seen seated under a mango tree about a mile from the fair at about 4 P.M. on that Thursday. This was before the 3rd and 5th prisoners arranged with Varada to convey the news to Puttaswami through Devaregudde. Devaregudde corroborates Varada and says that he conveyed the news to Puttaswami . He further deposes that Puttaswami consented to go the next morning to Chamarajanagar when he was assured of the necessity for such a stop being taken.

If these witnesses are believed, there is reasonable ground to believe that these prisoners and absconding prisoners have conspired to commit the murder of Puttaswami ; that individual acts of 3rd and 5th prisoners not only prove the existence of conspiracy but also show that they were parties toxx it. xxxxxxxxxx

I shall now consider what is alleged against these witnesses.

Though the 3rd prisoner stated in his defence that Varada was fined Rs. 10/- for trespassing into the house of one Manji, no attempt is made to prove the fact. Varada stoutly denies it. Hence it must be assumed that Varada had no cause to forswear himself. He is singularly corroborated by Vyasa Rao (P.W.8) Shekdar, He deposes that he sent Varada his peon in the last week of September 1919 to bring the Patel and Shanbhogue of Gangapur immediately to receive the Notice, and that the peon came on the next day with the Shanbhogue with a report from the Patel pleading his inability to go there and requesting the Notice to be paid to the Shanbhogue.

There is nothing shown against this witness. If the

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The only point urged against Varada is this. He makes out a Hukum was given to his hand, whereas Thoikdar says that he sent word through him. It may be through lapse of memory on the part of either of these witnesses that this discrepancy might have crept in. I cannot bring myself to discredit the testimony of these independent witnesses, merely on the strength of this trivial discrepancy.

Varada has says that he did not send word to the Patel of Aldur. It follows then that the 3rd and 5th prisoners invented a lie for the purpose of decoying Puttaccami and place Varada an ignorant poor tool in their hands by making him believe their version and act in the manner he did.

As to Revenue Rules, it is alleged that a few years ago, one Pitchai obtained a land at an auction for Rs. 2/- , that Siddalingiana Gowda at the instance of 5th prisoner applied for the same land, and that the land was eventually sold to the original purchaser for Rs. 100.

From this the court is asked to discredit his testimony. In the first place it is clear from the evidence of the Amildar and from the Revenue papers, that the sale to Basavalingia was cancelled by the Amildar on the ground it was irregular and the price was inadequate, that there were many applicants for the land, and that the land was given to Basavalingia himself. There is nothing to shew that the 5th prisoner put forward Siddalingiana Gowda to bid for the land.

In the second place, Siddalingiana Gowda was not examined to prove this allegation. The circumstances connected with the land shew that as it was a valuable land, many were anxious to secure it and that it did not require

the

the intervention of 5th prisoner to ask his alinginan Ladia to bid for the land.

Hence there is no enmity shown against this witness. I therefore see no reason to refuse credence to ~~xhxxxtxx~~ his testimony. As to the theory set up that he and Veri Lallappa have concocted this case, I shall fully discuss it later on.

As to Manjunda, his evidence is sought to be impeached on the ground that he has set up subsequent alienees against the 3rd prisoner in respect of properties sold to him. Except the interested version of Manjundaswami (D...2) his own brother-in-law, there is nothing to show that Manjunda has set up any subsequent alienee against the 3rd prisoner. On the other hand, Manjunda swears that half the land was sold to the 3rd prisoner and the other half was sold to Seshappa and that the 3rd prisoner got the other half from Seshappa, that the 3rd prisoner is in peaceful possession of the entire land and that he has no objection to 3rd prisoner's possession of the lands sold to him.

Even according to Manjundaswami,(D.W.2) it is clear that the land sold to Seshappa was sold to Putta Ladia and that the 5th prisoner purchased the same from Putta Ladia. He says that Seshappa tried to get possession of the land from the 3rd prisoner. After this, the matter seems to have been settled by 5th prisoner purchasing it himself. All this occurred about 2 years ago. Manjunda further deposes that the 3rd prisoner got another sale deed after he came of age and that he has no objection now on the ground of want of consideration. It appears to me that there might have been some trouble about the ~~xxx~~ sale made during his minority

and

that the matter must have been subsequently settled after the execution of a sale deed on attaining his majority.

Since all this occurred a year before the occurrence, there is nothing to presume that Manjunda continued to be hostile to the 3rd prisoner after he executed a sale deed on his attaining majority. The impression we and the assessors got of truthful witness. He is an unsophisticated youth who gave evidence in a straightforward manner. As to trivial contradictions between his evidence and that of Veraiah on a minor point, I have carefully considered it. I consider that they require no serious notice. They are likely to happen when the witnesses are so severely handled by three advocates.

As to Veri Gallappa, it is alleged that he is an enemy of 5th prisoner and that he has concocted this case. I shall presently deal with that theory.

It is admitted that some criminal complaints were mutually in September 1919 between him and the 5th prisoner. The theory now set up is that this person with the assistance of Lovers had has murdered Puttaswami and in order to concoct a case against the 5th prisoner who is his enemy.

Mr. A.--Krishna Rao, Special Public Prosecutor contends that this theory is entirely without any foundation, and that it is impossible to believe that Veri Gallappa would sacrifice the life of an innocent person, who is not his enemy, to foist a case against the 5th prisoner, and that the subsequent conduct of Gallappa in not mentioning the murder of the prisoners in his report militates against such a theory.

There

There is much force in this contention. There is much against the theory being accepted. First, it is clear from the evidence on the record that Puttaswami was a stranger to Lari Lallappa, that there was no ill-will between the two, and that Devaragudda was a partisan and friend of Puttaswami. It is inhuman to expect these persons to murder this innocent lad with a view to bring a false case against the prisoners who are not shown to be enemies with these persons except the 5th prisoner who may be an enemy of Narimallappa. Secondly, if Nari Lallappa wanted to wreck his vengeance against the 5th prisoner, he would have got him murdered instead of murdering an innocent man relying on doubtful possibility of procuring conviction of the 5th prisoner. The motive alleged is to save himself from the prosecution of a criminal complaint filed against him by the 5th prisoner and which was for hearing the following day. It is difficult to see how he would have saved himself from this prosecution if Puttaswami was murdered on the previous day. No man will expect an innocent man to abscond if a crime was committed by others and allow the case to go by default. The motive alleged, therefore, is not made out.

Thirdly, the conduct of Nari Lallappa in not implicating any of the prisoners in his report negatives the theory. Fourthly, the reason assigned by Devaragudda for Lallamma to work against the prosecution, seems to be true. He says that the prisoners got round the paramour of Lallamma by paying Rs. 800/- and that he and Lallamma attempted to induce him to forswear himself and that they worked against the prosecution. This is corroborated by the fact that none of the prosecution witnesses turned hostile, and that Lallamma complained to the authorities to the effect that the Police have worked on the wrong track and have left the real culprits. The Police authorities rejected her theory.

theory. This theory was not put forward at the time of the inquest by any one and is directly opposed to the one put forward at the time of inquest.

Fifthly, there is no evidence to shew that Karimallappa or any one induced witnesses to forswear themselves.

These considerations lead me to conclude that this theory is as false as it is ingenious. I, therefore, see no reason to doubt the veracity of Karimallaiah.

15. Now, I shall examine the evidence adduced in respect of the incidence of the 26th September, 1919. This consists of the testimony of Subbaiya (P.W.13), Channe Gowda (P.W.14) Kahantiah (P.W.15), Hamza Manjappa (P.W.19) Sidda (P.W.16), and Puttamma (P.W.17)

The first two persons depose to the fact of their seeing the prisoners Nos. 1 and 2 in the company of Puttaswmi in the early morning of Friday the 26th September 1919, and that Channe Gowda heard the conversation between these persons at the turning point as detailed in 2nd paragraph of this Judgment. Kahantaiyn is an eye-witness to the occurrence, Hamza Manjappa deposes to the fact of seeing the prisoners Nos. 1 and 2 and another near the neighbourhood after the occurrence. Puttamma saw them in her shop and served eatables before noon on 26th September 1919, Sidda corroborates her.

If their testimony is believed, it proves beyond a doubt that Puttaswmi was murdered with most brutal and savage ferocity by prisoners Nos. 1 and 2, in pursuance of the common design of the confederates and their acts will prove not only the existence of conspiracy and also their part in it.

I shall consider what is alleged against each of these witnesses.

As to Subbiah, it is alleged that he and the father of 1st prisoner are enemies and in consequence he has given false evidence. The cause of enmity is stated to be that this witness offered to buy a dry land for Rs. 30/- from Veerappa Hadia and that land was purchased for Rs. 50/- by the father of 1st prisoner. In the first place, this was not alleged before the Magistrate. The witness has denied this fact. Secondly, Veerappa Hadia was not examined to prove this fact.

From Exhibit D33 (sale deed), it is seen that the sale was on 27th February 1906. This rests entirely on the uncorroborated testimony of Subbe gowda (P.W.1) the father of the 1st prisoner. I cannot bring myself to believe that there was any offer by this witness to buy that piece of land, and that an enmity arose between them in 1906 as stated by Subbe gowda and that in consequence Subbaiya is deposing falsely.

As to Channe gowda, the 1st prisoner alleged that he accepted the sale in attaching his properties on the behalf of Sowcar Hadiah and the decree holder, that he, his father and others complained against him for kidnapping a girl, and that he has been ostracized in connection with the marriage of his son with a girl belonging to Nanjangud and that in consequence he has been falsely implicating him.

Channe gowda denies all those facts. He says that his grand daughter stayed in his house of her own accord, that her father informed this to the Police and that when Police asked him to send her away he

cont

sent her. He denies that there was ever any complaint preferred by the first prisoner and his father. He further says that the 1st prisoner never came to his house to attach his properties. The 1st prisoner could well have summoned Sowcar Kadir and the Amin to prove the allegations he makes and could have summoned any record to prove the complaint preferred by him and others against Chenne Gowda. He also might well have proved a complaint filed by him against the 2nd prisoner as he now states.

In the absence of proof of these allegations, I cannot attach any importance to them. His father's interested version cannot be relied on.

As to Ashantaiya, nothing is alleged against him. He is a disinterested witness. He seems to be a respectable ryot owning property. He is an old man and has absolutely no motive to implicate innocent persons in a capital case.

All that is urged against accepting his testimony, is that there are contradictions to be found in his statements given before the Magistrate and before this court.

I have carefully examined his different statements. The contradictions relate to some differences in time of the assault to some distances between their places and to the relative position of prisoners Nos. 1 and 2 and the ~~xxxxxxx~~ deceased while they were

passing

parcing and to the exact number of blows struck.

As to time, it may be stated at once that there is not so much of contradiction as is sought to be shown. The witness had no watch with him. All that he says is that the incident occurred just after sun rise.

As to distances, he has not measured the spaces and as such it is a rough estimate he has given.

As to the relative position of the prisoners no body can be accurate about it seeing that they were moving when he observed them. As to the exact number of blows , he cannot be expected to count them when he was in a state of excitement. It is vaguely hinted that he must have gone to Lahadeswara Jatra on that day. There is no proof in support of it. Subbaiya seems to have stated it on hearsay information.

Having regard to the old age whose eye sight is not questioned, and to the illiteracy of the witness and to the very rough manner in which he was handled by three advocates in succession, I am inclined to believe that in as much as he was deposing to facts within his knowledge, he was able to stand such searching and minute cross-examination at the hands of the advocates and that he impressed me and the assessors as a very truthful witness.

As to Kempa Nanjappa, it is alleged that he

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was examined as a witness in favour of a person who xxxxxxxxxx filed a petition before the Archdeacon in connection with the recovery of Kandayam by the 5th prisoner without granting a receipt.

This affords more a ground for the 5th prisoner to wreak his vengennce against this witness than this witness to depose falsely. I am not satisfied that there is anything in this to doubt the verocity of this witness. Vidan and Puttamma are unsophisticated folks. There is nothing shown against accepting their testimony.

It is satisfactory to observe that all the important witnesses were examined within a day or two after the occurrence and that the witnesses Subbaiya, Chenna Gowda, Muthaiya, and Kempa Honja, Hari Mallappa and Veerareddy are men of substance, and that it is very unlikely they would have come forward to swear falsely to implicate innocent persons.

They have all impressed me and the assessors as truthful persons. It is a significant fact that all the xxxxxxxx prisoners are proved to have absconded after the deed in order to evade arrest and trial; and this is a relevent factor to be considered along with other convincing facts.

16. These considerations lead me to conclude that the story of the prosecution is substantially correct and the acts of the prisoners Nos. 1 and 2 prove not only the existence of conspiracy but also their complicity in the crime.

Concurring with the unanimous opinion of the assessors, the court finds (1) Dasi, (2) Subbaiya guilty of the offence specified in the charge, viz,(of murder punishable under section 302, I.P.C.)

Concurring with the opinion of the 1st and 2nd assessors and differing from the 3rd assessor who declined to give any reason for his opinion, the court finds (3) Shamanna, (4) Basava Linga Devaru, and (5) Lakshminaranappa guilty of the offence specified in the charge viz, (abetment of murder by conspiracy- punishable under section 302 read with section 109,I.P.C.).

This murder of an innocent lad was committed with most brutal and savage feracity. The prisoners Nos. 3 to 5, are the evil geniuses and moving spirits. They conceived the scheme, they designed the means and inspired the work by engaging the services of 1st and 2nd prisoners.

There are no circumstances which can weigh with the Court in refraining it from sending the prisoners to their doom. The court sentences (1) Dasi, (2) Subbaiya, (3) Shamanna, (4) Basalinga Devaru and (5) Lakshminaranappa to be hanged by the neck until they are dead subject to the confirmation of Chief Court to whom these proceedings will be submitted.

The prisoners are informed that they have to appeal within seven days.

Pronounced in open court.

Sd/ B. NAGAPPA,

7th October 1920. Sessions Judge.

Articles Nos. 1 to 5 may be destroyed after the

the disposal of the appeal and article Nos. 6 to 9 will be forwarded to the District Magistrate for handing over to the heir of Puttaswami after the appeal is disposed of.

Sd/ B. NAGAPPA,

7/10/1920. Sessions Judge.

"C O P Y"

SESSIONS JUDGE.

Date of application for Copy 8-10-1920

Date when Copy was ready

Date when Copy was delivered to 2nd prisoner's brother-in-law Basavaiya — — — 12-10-1920

Witnesses examined in the case:-

For Prosecution.-

1. Sreenivasa Rao.
2. Sr. A.Sitaramaiya.
3. Sr. Ramachandra Rao.
4. Venkata Rao.
5. Nanjundappa.
6. Ankaiya.
7. Huchappa
8. Vyasa Rao.
9. Varada.
10. Nanjunda.
11. Devaragudda.
12. Lakshmana Rao.
13. Subbaiya.
14. Channa Gowda.
15. Channaiya.
16. Hidda.
17. Puttaiya.
18. Kari Gallappa.
19. Kempa Nanjappa.,
20. Sr. S.Abdul Khalek.
21. Sr. A.Ranganathaiah Rao.
22. Abdul Khalek.
23. Sidda.

For Defence.

1. Subba Gowda (for accused No.1).
1. Nanjundaswami. (for accused 3 and 5).

11. Exhibits filed in the case.

For Prosecution.

1. Order sheet of the Chamarajanagar Bailiff dated

10-1-1919 to 4th accused directing him to hand over charge to deceased.

P3. Order of -do- dated 10-1-1919 to deceased Putta swami to take charge of the Patel office.

P4. Report of the deceased dated 26-3-1919 to the Sanitur Cheikdar complaining against the 5th accused.

P4. Statement of the deceased on 26-3-1919 before the Cheikdar P. .1.

P5. Statement of 5th accused on 27-3-1919 before P. .1

P6. Report dated 27-3-1919 of P. .1 to the Amildar.

P6(a) Order of the Amildar re P6 to the Cheikdar.

P6(b) Report of the Cheikdar P. .1 re P6(a) to the Amildar.

P7. Report of the 5th accused dated 18-4-1919 to the Cheikdar P. .1.

P8. Amildar's order dated 7-5-1919 to P. .1 intimating suspension of 5th accused.

P9. Entry in the Patta book of one Ranjaiya in the handwriting of 5th accused and signed both by 4th and 5th accused.

P10. Receipt granted to Venkate gowda signed by 4th and 5th accused

P11. Entry in the Patta book of one Ankaiya in the handwriting of 5th accused and signed by 4th and 5th accused.

P12. Entry in the Patta book of one Huchaiya in the handwriting of 5th accused and signed by 4th and 5th accused.

P13. Thiridi book of the Sidar village.

P14. Order appointing 4th accused as Patel Gumasta

of Alur Village.

P15. Appeal petition in Revenue appeal No. 61 of 1919 on the file of the Deputy Commissioner, Kolar District.

P16. Petition dated 26-3-1919 of the deceased to the Collector of Chamarajanagar.

P17. Statement of the deceased on 27-3-1919 before P.W.3.

P18. Statement of 4th accused on 27-3-1919 before P.W.3

P19. Statement of 5th " " "

P20. Report of the deceased dated 27-6-1919 to the Chamarajanagar Taluk office complaining against 3rd accused.

P21. Report of Sheikdar P. W.7, dated 30-8-1919 to the Taluk office after enquiry into the matter contained in Exhibit P20.

P22. Statement of deceased Puttaswami recorded by the Sheikdar, P. W.8, on 15-8-1919 .

P23. Portion of the deposition of Manjunda, P. W.10, before the Committing Magistrate as P. W.16.

P24. Sketch showing the scene of occurrence and its surroundings.

P25. Patel's report dated 26-9-1919 to the Santhe Bevhalli Police station re the occurrence.

P26. Patel's report dated 26-9-1919 to the Chamarajanagar Taluk Magistrate re the occurrence.

P27. Petition filed by Gudda Mallaiya to the Chamarajanagar

Chengarjanagar Taluk office proceeded on 30-11-1908.

28. Petition dated 6-12-1908 by Narayanaswamy, 4th accused praying for posting him as Patel to the Nanjangud Sub Division etc.

29. Statement of 4th accused before Sheikdar Ramachandra Rao taken on 10-2-1909 re Patel1 office.

30. Order of the Deputy Commissioner, Mysore District appointing 4th accused as Surveyor Patel.

31. Petition dated 22-8-1918 by Puddamallappa to the Assistant Sub Division officer praying that he may be permitted to appoint one he chooses as Patel till the accused is competent to take up the office.

32. Order dated 4-1-1919 of the Sub Division officer, endorsed, appointing the accused as Patel on probation.

33. Report of Mahazar dated submitted in the case.

34. Deposition of Mr. Ranganatha Rao, Senior Sub Assistant Surveyor before the Committing Magistrate as P.W.27.

35. Deposition of Sheikdar Ramachandra Rao before the Committing Magistrate as P.W.29.

36. Extract of the 1st accused before the Committing Magistrate.

37. -do- 2nd -do- -do-

38. -do- 3rd -do- -do-

39. -do- 4th -do- -do-

40. -do- 5th -do- -do-

41. Sheristadar dated 1-10-1919 re the search of the 1st accused's house.

L42 . Statement of Udara Dalliciye at the Inquest.

For Defence:-

L 1 to L6. Portions of the deposition of Serrde, P. .9, before the Committing Magistrate on P. .12.

L7 to L10 Portions of the deposition of Anjunde P. .10 before the Committing Magistrate on P. .16.

L11 to L12. Portions of the deposition of Severinden P. .11 before the Committing Magistrate on P. .7.

L13. Portion of the statement of Severinden at the Inquest.

L14. Portion of the deposition of P. .13 Ubbaliye before the Committing Magistrate on P. .17.

L15. Portion of the deposition of Channo Perera, P. .14 before the Committing Magistrate on P. .14.

L16 to L19. Portions of the deposition of Ukantaliye, P. .15, before the Committing Magistrate on P. .17.

L20. Statement of -do- at the Inquest.

L21 to L24. Portions of the deposition of -do- before the Committing Magistrate on P. .19.

L25 and L26. Portions of the deposition of Aida P. .16, before the Committing Magistrate on P. .13.

L27. Portion of the deposition of Puttesara P. .17, before the Committing Magistrate on P. .20.

L28. Portion of the deposition of Arisillanes before the Committing Magistrate on P. .17.

L29. Portion of the statement of -do- at the Inquest.

D30. Portion of the deposition of Kempe Anjanna, P. .1 before the Committing Magistrate on P. .1

D31

[illegible] conjoined on 18-7-19
[illegible] Alder.

[illegible] dated 20-11-1918 by one [illegible]
in the [illegible] office complaining against
[illegible] of having received receipt for
[illegible].

[illegible] dated [illegible]-1918 addressed by [illegible]
[illegible] to the [illegible].

[illegible] Inspector of [illegible] dated
[illegible]-1918 to [illegible] requiring him if he would
[illegible] the said School Master's place.

[illegible] before the Committee
[illegible].

[illegible] in their case.-

[illegible].

1. [illegible].
2. [illegible].
3. [illegible].
4. [illegible].
5. [illegible] in which [illegible] tied.
6. [illegible] (Oliver).
7. [illegible].
8. [illegible] of [illegible].
9. [illegible].

[illegible]:-

[illegible] condition does.

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Friday, the 8th day of April 1921.

Present.

Mr. Justice K.S.CHANDRASEKHARA AIYAR, Offg: Chief Jud

and

Mr. Justice R. B. P L U M E R.

Petitions of Criminal Appeals Nos. 59 and 60 of 1920-21/Criminal Referred Case No. 4 of 1920-1921, against the convictions and sentences by the Sessions Judge of Mysore Division, under section 302 of the Indian Penal Code in the case of accused Nos. 1 and 2, and sections 302 read with section 109 of the Indian Penal Code in the case of accused Nos. 3, 4 and 5, in Mysore Sessions Case No. 23 of 1919-1920.

APPELLANTS.

In Cr.Ap. 59/20-21

1. Shamanna
2. Basalinga Dav
3. Lakshminaranap

(Accused 3, 4 and

In Cr. Ap. 60/20-

1. Dasi
2. Subbayya

(Accused 1 and 2)

JUDGMENT.

J U D G M E N T.

The appellants in Criminal Appeal No. 60 (who were accused Nos. 1 and 2 in the Court of Session) have been convicted of the murder of Puttasami, a young man of twenty years of age, who less than nine months previously had been appointed to the pateli of Aldur at the instance of his adoptive father Muddamalliah, the registered patel. The appellants in Criminal Appeal No. 59 (accused Nos. 3, 4 and 5) have been convicted (under section 302, I.P.C. read with section 109) of abetting the said murder. All of them have been sentenced to death.

The record of evidence through which, we may add, we were taken at considerable length during the very full exposition of their case by the learned advocates for the appellants, is voluminous; but a large part of it is directed towards shewing, what is indeed undeniable, that the relationship between the deceased and accused 3 to 5 (the appellants in Criminal Appeal No. 59) was very strained. The fourth accused Basavalinga Devaru had every reason to nourish bitter hatred against the young man who was the cause (though innocently) of his being turned out of the pateli gumasta office and deprived of all hopes of succeeding to the pateli on Muddamalliah's death. The fifth accused, Shanbhog Lakshminaranappa, actively sided with the fourth accused in thwarting Puttasami, and was in consequence suspended from the office of Shanbhog, which was then assigned to his sister's husband, the third accused Shamanna. The new incumbent, who is admittedly a friend of the

fourth accused, did not pull on any more harmoniously with the young patel, and we find the latter complaining to the Taluk authorities that the third accused had retained with himself various kandayam amounts collected from raiyats; and though the enquiry did not result in the complaint being substantiated, the incident could not but have tended to aggravate feelings already embittered.

There is no specific evidence of motive so far as the other accused persons are concerned, beyond the fact that the second accused Subbayya is the brother-in-law of the fourth accused, while two other persons who are also implicated in the murder but are said to be absconding to evade arrest, namely Hittina Mallaiya and Pattadaiya, are, respectively, another brother-in-law and the uncle of the same fourth accused. The first accused Dasi belongs to a different caste, and, according to prosecution 11th witness, seems to have been friendly with Puttasami rather than otherwise.

The case against the accused Nos. 3, 4 and 5 rests upon proof that they conspired with, and induced, the other accused to murder Puttasami; while the case against accused 1 and 2 rests also upon evidence that they were the persons who actually took part in the murder. It is desirable to consider this branch of the case before we deal with the evidence relating to the conspiracy.

The factum of murder is itself unquestioned. The dead body of Puttasami was found, on Friday morning the 26th September 1919, lying in a pool of blood, with

the

the neck half severed from the trunk, in a valley called Kembrehalla along the footpath leading to Ummattur. According to the post mortem examination held on the 28th Idem, there was no less than 24 incised wounds, on the head, neck, shoulders, arms and hands, - wounds of varying shapes, some curved and some straight, and all of them inflicted while the victim was alive; and a number of bones were also found to have been fractured. The medical opinion is that over fifteen strokes were necessary to produce all these injuries, and that at least two cutting instruments of different shapes must have been employed. Vide Exhibit P34. It is clear at the same time that robbery could not have been the motive, as no article of any value has been found to be missing.

If the evidence of prosecution 15th witness Mahantaiya can be relied upon, there can be no doubt as to who were the actual murderers. The witness is the owner of a field immediately to the west of Kembrehalla the scene of the murder, and is a man of some substance against whose veracity nothing has been elicited. He deposes that while going round his field, he observed Puttasami being hacked with choppers by the first and second accused in the halla, and that the assailants on seeing him ran away in the direction of Watal and Sugalur (towards the east). A few apparent inconsistencies on points of detail have been elicited between his statements at the trial, and at the preliminary enquiry and inquest;

but

but only two require to be particularly noticed. At

One of them has reference to the exact time of the occurrence. At the inquest held by the Amildar on t the 28th Septemberm Mahantaiya is reported as saying that he noticed some assault going on when he came to inspect his field in the morning at bathing time (Exhibit D_{20}). Before the Committing Magistrate the time was stated to be "a little ~~xxxx~~ before bathing time", which, from the position of the Sun as pointed out by the witness, has been taken down as being about 7 or 7-30 A.M.; "cold meal time" and "cattle letting out time" are further descriptions elicited in cross examination. In the Court of Session the answer given was that the ~~Sun~~ Sun was about three or four marus from the horizon; and there is a note that the witness does not understand what "hour" is. It is obvious in any case that his references to time are merely rough and approximate ones, which again are not so widely at variance with one another that we should reject the whole of his statements, particularly in the absence of anything to shew that the variations are intentional and made with the object of giving a false turn to the case. They are more probably due, as surmised by the Sessions Judge, to the witness' age, illiteracy and hardness of hearing as well as to the severe and lenghhy cross-examination to which he seems to have been subjected.

The other variation has reference to the exact part taken by each of the assailants of Puttasami. The inquest report, whichm it has to be remembered, is expected to contain only a brief summary of what is

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elicited from each informant, reads as if only one chopper, the one which was held by the first accused Dasi and with which he cut the deceased, was referred to by Mahantaiya. Before the Committing Magistrate, however, he distinctly asserted that both the accused persons had choppers with which they cut down Puttasami; and when confronted with the summary of his earlier statement, he protested that he did mention the circumstance to the Amildar, but that, as he was asked "was there machu?", and he answered "yes", he could not say what was actually written down. At any rate he adhered in the Sessions Court to the later version; and while it is probably safer to ignore the additional particular, given out under pressure of cross-examination, that the first accused struck two blows while Puttasami was standing and the second accused dealt some fifty blows after he fell down, — though it does not really conflict with the rest of his statements,— we see no reason to reject his testimony in regard to the broad fact consistently vouched for by him, that both the first and second accused participated in the murderous assault on Puttasami and that they ran away towards the east as soon as they saw him. The Sessions Judge has noted favourably on Mahantaiya's demeanour in the box, and considers, we think rightly, that he is a disinterested and respectable witness who has absolutely no motive to falsely implicate two innocent persons.

Though Mahantaiya's is the only direct evidence available of the complicity of the accused Nos. 1 and2 in the murder, there are certain other circumstances

which

which lend a considerable degree of probability to it.

Thus, very shortly before the murder, these two accused and Puttasami ~~was~~ were noticed by the prosecution 13th and 14th witnesses passing along the cart-track from Aldur towards Ummattur. Puttasami told the former witness when questioned by him that the accused persons were accompanying him to Chamarajanagar; and the latter witness speaks to the first accused having ~~by~~ pursuaded Puttasami, who was about to turn into the path leading to Ganaganur, to take the Ummattur road ~~ins~~ instead, for the reason that "they" (meaning, it is suggested, the patel and shanbhog of Ganaganur) must have already left for Chamarajanagar. Prosecution 13th witness adds that a short while previous he had also met Hallaiya (the absconding brother of second accused) coming from Aldur. The relevancy of these particulars will become apparent when we come to deal with the question of conspiracy.

Again, prosecution 19th witness swears that same morning while proceeding from Hatal to Ummattur he saw accused Nos. 1 and 2 and Hallaiya coming across the fields from the direction of Nembrehalla and going towards the east. As regards time, he says no doubt, somewhat vaguely, that the sun was at a height of 2 or 3 marus from the horizon; but it is clear at any rate that he is referring to a point of time shortly after the murder.

The testimony of prosecution witnesses 13, 14 and 15 has been impeached on the ground that they have reasons for ill-will against the ac-

The defence allegations in this respect have not been satisfactorily made out, and in any case, appear to be considerably exaggerated. On the other hand, the circumstance that these three witnesses were among the earliest to come forward to give information to the police and that their statements at the inquest are in substantial agreement with their latter statements, is a material guarantee of the reliability of their sworn ~~testimony~~ testimony.

Finally, prosecution 17th witness deposes that a little before noon on the Friday morning in question the first and second accused and another person not then before the Court of Session came to the petty shop kept by her to purchase eatables; and this is corroborated by the prosecution 18th witness, who adds that the men were in a hurry and appeared to be in a confu state. These witnesses are not among those examined at the inquest, since they were not available to the police till the 10th October; apart from this, nothir whatever affecting their impartiality has been either elicited or alleged.

Taking as a whole the materials briefly adverted to above, it is impossible to avoid the conclusion that the first and the second accused were the persons that actually committed the murder. The absence, however, of an independent impelling motive for either of them to perpetrate such a dastardly crime strongly suggests instigation by others inspired by more immediate personal reasons; and this is the theory advanced by the prosecution. A consideration of this leads us to the

other

other branch of the case as to the existence of a conspiracy in which accused 3 to 5 were the prime movers.

Two incidents are mainly relied upon as pointing to a conspiracy, and both are incidents of the day previous to the occurrence. The first is the manoeuvre successfully adopted by the third and fifth accused on Thursday afternoon to induce Puttasami to leave Aldur the following morning for Chamarajnagar; and that was by prevailing upon Revenue peon Varada (prosecution 9th witness) to send word to Puttasami that he was required to go to the Taluk cutcherry on Friday to receive potigi. We have already seen that Puttasami was on his way to Chamarajanagar when he was murdered; and there is little reason to doubt that he really started on his journey under the impression that his presence was required there. The man who conveyed the message to him was Devaragudda (prosecution 11th witness), his own particular friend who was actively helping him in his pateli work.

It is suggested by the defence, on the strength of the unreliable statements of certain near relatives of the deceased man who have resiled from their original statements at the inquest and plainly turned hostile that Devaragudda himself planned the journey in order to murder Puttasami; but this, in our opinion, is an utterly improbable and even wild hypothesis. We have already found that accused 1 and 2 were the persons that committed the murder, and it is no part of the

defence

defence case that Devaragudda assisted them in doing so; on the contrary, he is alleged to be inimical to these and the other accused in the case.

Now according to Devaragudda, the Sheikdar's peon Varada called ~~on~~ him on Thursday afternnon in the Ganaganur shandy and told him, in the presence of the third and fifth accused, that the Shanbhog (meaning the third accused) would be going to Chamarajanagar for receiving Potigi as Dasara holidays were about to intervene, that it was necessary for Puttasami also to attend, and that Puttasami should be asked to go positively on the following day; the third accused repeated and confirmed Varada's message and asked the witness to convey it to Puttasami, which he did. It should be added that Devaragudda was one of those examined at the inquest on the day following the murder, and that he gave the same account then that he continued to give at the preliminary inquiry and the trial.

Devaragudda's account is entirely in consonance with that given by peon Varada (prosecution 9th witness), who is indeed the principal witness as to this part of the prosecution story. The latter had been sent by the Shekdar of Ummattur hobli (who has also been examined as prosecution 8th witness to corroborate him on the point) with instructions to ask the Ganaganur patel and shanbhog, but not those of Aldur, to attend at the Taluk cutcherry to have their potigi amounts adjusted; but the third and fifth accused, after ascertaining Varada's errand when they met him in the shandy at noon, cleverly persuaded him, when he was returning from the shandy at about 5 P.M., to send a false message as above to

Puttasami through Devaragudda.

The prosecution has called the Ganaganur patel Harimallappa (prosecution 18th witness) to speak to the fact that at about 4 P.M. that day he saw all the accused persons and Hallaiya and Pattadaiya seated ~~at~~ under a mango tree at the shandy. In appraising this man's evidence at its propor value, regard must be had to ~~xxx~~ various considerations. Upon the one hand there is the fact, which he does not deny, that he is on inimical terms with the third and fifth accused; and, on th other, his story of the meeting is clearly not a later invention, since the fact that all the persons named had come to the shandy on Thursday after having first gone to the shanbhog's house is referred to in Harimallappa's statement at the inquest, though in his examination before the Committing Magistrate he mentions only accused Nos. 1, 2 and 4 and Hallaiya and Pattadaiya, but not accused 3 and 5, as seated near the mango tree. On the whole we think his evidence, such as it is, may be taken as ~~xxxxxx~~ adding strength to what is otherwise probable enough, that, in the interval between the two interviews with peon Varada, the third and fifth accused must have conceived the idea of utilising the Shekdar's ~~xx~~ summons to the village officials of Ganaganur for the purpose of decoying Puttasami from Aldur the following morning.

The other ~~xxx~~ incident upon which the theory of a conspiracy rests is the secret meeting of all the persons implicated in the case (accused 1 to 5, Hallaiya and Pattadaiya) on Thursday night at about 9 or 9-30 P.M. in the

the house of the third accused. This is spoken to by peon Varada, who came to the pial to sleep, and who, when he pushed the door open to ask for a mat, found all the seven persons seated inside the house. The defence has tried its best to ~~xxxxx~~ discredit Varada's testimony, but unsuccessfully. He is ~~xxxxx~~ corroborate on the point by prosecution 10th witness Nanjunda, whom Varada has also mentioned as sleeping on the same pial with him that night; and though, in view of certain transcations which point to the existence of ill-will between him and the third accused, we should not be inclined to rely on Nanjunda's statement standing by itself, we think it is of value as strengthening Varada's testimony. Nanjunda also speaks of a meeting of the conspirators in the house of accused 3 and 5 before lamp-lighting time; this, if true, must be a later meeting than the one alluded to by the prosecution 18th witness as having taken place between 12 noon and 1 P.M. at the same spot.

Such in brief is the ~~substance~~ nature of the evidence adduced. The defence seeks to impeach it wholesale as a concoction by the enemies of the accused 1, 3 and 5. Granting that these accused, particularly Nos. 3 and 5, may have made a number of enemies, we can see no sort of warrant for the indiscriminate suggestion thrown out that almost everyone examined in the case, beginning with the Amildar and the Police Inspector, is falsely implicating them on account of private grudge. Then it is said that the evidence in question does not prove that the meetings of the accused persons had

anything

anything to do with the plotting of Puttasami's murder. We are unable to accept this criticism as correct. No doubt, no one has been called who can speak to the conversations that may have taken place at those meetings; but conspirators do not as a rule discuss their designs in the hearing of other persons; and circumstantial evidence and probabilities have generally to be relied upon, and if strong enough are quite sufficient, for drawing an ~~xnx~~ inference as to the object entertained.

In the present case the facts stand thus. Accused 3, 4 and 5 had the strongest possible motive for doing away with the youthful patel. Accused 3 and 5, availing themselves of the unconscious aid of peon Varada, caused a manifestly untrue message to be sent to Puttasami through his friend Devaragudda. It is clear they were anxious that Puttasami should leave Aldur early the next morning; and the several meetings held on Thursday, following as they did Varada's ~~xnxt~~ visit to Ganaganur, must have had reference to a common purpose in that respect. As a matter of fact, two of the persons that attended these meetings (accused 1 and 2) actually committed the murder the next day, as we have already found, while another, Vallaiya, was seen in the company of the murderers immediately after the occurrence, as he was seen in proximity to them shortly before. It is also in evidence, though we do not wish to attach undue importance to the fact, that all the seven persons concerned absconded immediately after the murder, and that two of them are still at large. Putting all these circumstances together, we find it impossible to resist the conclusion that accused Nos. 3, 4 and 5

actively engaged with the 1st and 2nd accused and two others in a conspiracy of which the murder of Puttasami was the object and as it happened the direct result.

We must, therefore, accept as correct the conviction of the accused Nos. 1 and 2 in respect of the offence of murder punishable under section 302, and the conviction of the accused Nos. 3, 4 and 5 in respect of the abetment of that offence (sections 302 and 109). The murder was wholly unprovoked, and most heartless and cruel act, without any redeeming features; and the sentence of death awarded by the court below is the only appropriate one in each case. We affirm the convictions and sentences and dismiss the appeals.

Sd/ K. S. Chandrasekhara Aiya,

Offg: CHIEF JUDGE.

Sd/ R. B. Plumer,

J U D G E.

"Copy"

E Sundaram

Registrar.

ad/

G. R S. VI—S-III/33]

DRAFT.

SUBJECT .....

.....

.....

Section. Cri
File No. 233-20
Serial No. 2

No. .....

Diary No. of letter replied to 23077

To

The Registrar of the Chief Court of Mysore.

GENERAL AND REVENUE SECRETARIAT,

( )

, the .....*191* .

Date of issue 26/6

Signed by .....

SIR,

I am directed to forward herewith for information of the Judges of the Chief Court and for communication to the prisoners Shamanna Basalingadevaru and Lakshmiparavappa undergoing sentence of death in the Mysore Jail, copy of order passed by H. H. the Maharaja of Mysore, on the prisoner's memorials.

2. The entire records received with your letter No. 9891 G dated 5.5.1934 are herewith returned.

I have, etc.,

for Secretary to Govt
Rev Dept

3 drafts

In the Matter of Memorials of (i) Dasi and (ii) Subbia who have been sentenced to death in Mysore Sessions case No 23 of 19-20

His Highness the Maharaja directs that the Memorials be rejected.

Draft

21.6.21
Dewan

In the Matter of ~~&~~ Memorials of Shamanna, Basalingadwaru and Lakshminaranappa, accused in mysore Sessions Case no 23 of 1919-20 on the file of the Sessions judge of Mysore

His Highness the Maharaja

has been pleased to

Commute the sentence of death passed ~~upon~~ on them to one of transportation for life.

Draft 16/6

21-6-21

Dewan.

WD 02264—GPB—500—5-2-17